

TREIDLIA BIOVET PTY LTD ABN 85 150 496 138 - TERMS AND CONDITIONS OF SALE (Terms and Conditions)

These Terms and Conditions, together with any credit application, quotation, or invoice to which these terms are attached or in which these Terms and Conditions are referred, together make up a legally binding agreement (**Agreement**) between Treidlia Biovet Pty Ltd, ABN 85 150 496 138, AND the person(s) or company named as the Customer in the Credit Application quotation, order or invoice. All other terms and conditions are excluded to the fullest extent permitted by law, including specifically and without limitation, any terms and conditions sought to be imposed by the Customer, whether put forward in the Customer's order, the Customer's specification or otherwise by the Customer.

1. Acceptance

1.1 The Terms and Conditions are accepted by doing any of the following:

- (a) Signing these Terms and Conditions; or
- (b) Signing the credit application, or quotation issued by Us in which the Terms and Conditions were attached or referred to; or
- (c) Placing an order with Us or accepting a quotation; or
- (d) Acceptance of the Products by You including by signing of a manifest, delivery docket, invoice or packaging slip for the Products received by or on Your behalf.

2. Agreement to Buy and Sell

We will sell, and You will purchase, goods and services (Products) from Us from time to time pursuant to these Terms and Conditions.

3. Ordering Goods

3.1 You may order Products from Us in any manner acceptable to Us (which includes without limitation, purchase orders, the acceptance by You of a quotation, or variation prepared by Us).

3.2 No order, sales agreement or other agreement shall bind Us, unless accepted by Us. We, in Our absolute discretion, may decline to accept any order without providing a reason for doing so.

3.3 No order, sales agreement or other agreement accepted by Us may be cancelled, altered or modified without Our written consent.

3.4 If You request there to be a variation in the scope of the supply of Products, then We shall notify You in writing of any price variation, associated delays and other relevant information.

3.5 We are not obliged to commence any supply associated with any variation identified in accordance with clause 4.4 unless and until You acknowledge and accept, in writing, the variations.

3.6 We will not be liable for any loss or damage arising through non-availability of the Products except where We have accepted Your purchase order.

4. Pricing, Quotations and Payment

4.1 You must pay to Us without setoff or deduction:

- (a) the price of the Products (current at the time of delivery or completion in \$AUD); and
- (b) costs and charges for freight and handling at the point of delivery to You, or Your agent

as listed on Our corresponding tax invoice provided to You.

4.2 Unless You have an approved credit account with Us, payment for the Products must be made before delivery of the Products by Us. If payment is by cheque, property in the Products will not pass until the cheque has been honoured by Your financial institution.

4.3 If You have an approved credit account with Us, the Products supplied by Us must be paid within 30 days of the date of invoice

4.4 Time for payment is of the essence. Without prejudice to any other remedy, We may charge interest on overdue amounts at a rate equivalent to 2% above the overdraft interest rate charged by Our bank from time to time.

4.5 All amounts payable by You under this Agreement are exclusive of GST unless otherwise stated. If GST is payable on any supply made by a party under this Agreement, the consideration for that supply will be increased by an amount equal to the GST liability incurred by the party making the supply and paid at the same time and in the same manner as the consideration.

5. Delivery and Risk

5.1 We give or accept delivery dates in a quotation or order in good faith, but do not guarantee those dates. We will not be liable to You for any loss or damage arising from failure or delay in delivery, due to circumstances beyond Our reasonable control.

5.2 A Delivery date cannot be varied by You once it has been agreed without Our prior written consent. If We agree to postpone delivery, We may impose a reasonable daily storage charge.

- 5.3** Risk in the Products will pass to You upon delivery of the Products to the carrier at Our premises for delivery to You.
- 5.4** We will deliver the Products to You at Your nominated premises as nominated in the relevant purchase order.
- 5.5** To ensure that You are able to store any Product delivered to You appropriately immediately after the Product has been delivered to You, We will ensure that You receive written notification of the intended date and time of each delivery of Product to You and You must ensure that You or a representative of Yours is present at the premises to which Product is delivered.
- 5.6** You will examine the Products within 7 days after delivery of the Products to ascertain any incomplete or failed delivery, or shortage of weight or quantity and no claim for these can be made if You or Your representative does not confirm delivery (by way of signature) upon delivery of the Products.
- 6. Retention of Title**
- 6.1** We retain title to the Products supplied to You until We have received payment in full for the Products supplied by Us to You.
- 6.2** Until title passes under clause 7.1 You:
- (a) will hold the Products as bailee and fiduciary for Us and will return the Products to Us if requested and;
 - (b) will to the extent practicable store each delivery of Products separately, clearly identified as Our property and in a manner to enable them to be identified and cross referenced to particular invoices where reasonably possible; and
 - (c) will not pledge or allow any lien, charge or other security interest to arise over the Products; and
 - (d) may use or sell the Products in the ordinary course of business but any monies received by You in payment for those Products shall be held by You in trust for Us.
- 6.3** Our rights as an unpaid seller are not affected by Us retaining title to the Products supplied until the Products have been paid for in full by You.
- 6.4** Where you have has not fully paid us for Products or You enter into bankruptcy, liquidation, a composition with Your creditors or have a receiver or manager appointed over all or any part of Your assets, enters into administration or becomes insolvent:
- (a) You may not sell, use or part with possession of the Products; and
 - (b) We are entitled without prejudice to Our other remedies to recover and repossess such Products and to enter any premises for this purpose, subject to Us complying with Your security and workplace health and safety requirements.
- 7. Personal Property Security Act ('PPSA')**
- 7.1** You grant to Us a purchase money security interest ('PMSI') in respect to the Products supplied to you by Us arising under any retention of title of the Products. You agree that the collateral which is at any time subject to Our security interest secures its own purchase price, and in additional to the extent possible under PPSA, that all collateral which is any time subject to Our security interest secures as a PMSI the purchase price of all collateral supplied to You. This clause does not limit what other amounts are secured under this Agreement.
- 7.2** We may register a security interest at Our expense. You must do anything (such as obtaining consents and signing documents) which We reasonably require for the purposes of:
- (a) ensuring that Our security interest is enforceable, perfected and otherwise effective under the PPSA; and
 - (b) enabling Us to exercise rights in connection with the security interest.
- 7.3** Our rights under this Agreement are in addition to and not in substitution for Our rights under other laws (including PPSA) and We may choose whether to exercise rights under this Agreement and/or under such other laws as We see fit.
- 7.4** The following provisions of the PPSA do not apply, and for the purposes of Section 115 of the PPSA are contracted out of this Agreement to the extent permitted by the PPSA:
- (a) Section 130 (notice of disposal to the extent it requires Us to give a notice to You);
 - (b) Section 132(3)(d)(contents of a statement of account after disposal)
 - (c) Section 132(4)(statement of account if no disposal)
 - (d) Section 135 (notice of retention)
- 7.5** Sections 123 (seizing collateral) 126 (apparent possession) 128 (secured party may dispose of collateral) 129 (disposal by purchase) and 134(1) (retention of collateral) of PPSA confers rights on Us. You agree that, in addition to those rights, We shall if there is default by You have the right to seize, purchase, take possession or apparent possession, retain, deal with, or dispose of any Products, not only under those sections but also, as additional and independent rights under this Agreement, You agree that We may do so in any manner We see fit including (in respect of dealing and disposal) by private or public sale, lease or license.
- 7.6** Solely for the purpose of allowing to Us the benefit of Section 275(6) of PPSA, We and You agree that neither must disclose information of the kind that can be requested under Section 275(1) of PPSA.
- 8. Warranty and Reporting**

- 8.1** We warrant that each Product delivered to You shall be manufactured in accordance with the specifications for the Product provided by You, and Our quality control standards and applicable specifications for each Product as reflected in the label and any applicable regulations and/or licence/permit conditions pertinent to the manufacture of the Product.
- 8.2** (a) We shall, immediately upon becoming aware of:
- (i) any non-compliance with clause 9.1 of these Terms and Conditions in relation to any Product or any facts or circumstances in relation to any Product or the production of any Product – which may result in the occurrence of an Adverse Event.
 - (ii) The occurrence of an Adverse Event in relation to any Product
- notify You of the relevant circumstances and the Adverse Event or Adverse Events which may occur as a result of the facts or circumstances or which have occurred. Initial notification may be by telephone to the employee nominated by You to receive such advice from Us. Written confirmation of such notification must be forwarded to You by email and facsimile transmission within one (1) Business Day of the date on which the initial notification is made by telephone.
- (b) We shall promptly investigate any facts or circumstances of the type described in (a) of this clause 9.2 and shall promptly notify You of the results of Our investigation and any action which We intend to take as a result of the investigation.
- (c) In this clause 9 “Adverse Event” means:
- (i) any expected or unexpected experience that is adverse, including what are commonly described as adverse or undesirable experiences, adverse events, adverse reactions, side effects, and including those relating to or caused by the production of the Product or by its handling or holding of it by Us and including death due to any cause associated with, or observed in conjunction with, the use or following the administration of any Product, whether or not (i) considered related to or caused by the use of any Product, (ii) occurred in the course of the use of any Product, (iii) occurred when the Product was made in accordance with the approved labelling or label directions;
 - (ii) any failure of expected pharmacological action or clinical effect of any Products, including without limitation, deterioration or contamination of any Products or any mistakes in the labelling of any Products;
- 8.3** The warranty contained in clause 9.1 is given by Us subject to the following:
- (a) The Product being used strictly in accordance with the appropriate Our Product instructions or Our Product literature;
 - (b) The Product being properly stored or maintained; and
 - (c) No addition to or modification of the Product being undertaken or attempted other than those authorised by Us.
- Our Product warranty does not cover damage, malfunction or failure resulting from misuse, neglect, abuse, use for a purpose for which the Product was not designed or is not suited, or normal wear and tear.
- 8.4** To the extent permitted by Law, the warranty contained in Condition 9.1 is in substitution for all other terms, conditions, warranties and representations, express or implied, by statute or otherwise, as to the description, merchantable quality or fitness for purpose of Products, which terms, conditions warranties and representations are hereby excluded.
- 8.5** Certain legislation, including the Competition and Consumer Act 2010, as amended, may imply warranties or conditions or impose obligations upon Us which cannot be excluded, restricted or modified or cannot be excluded restricted or modified except to a limited extent. These Conditions must be read and construed subject to any such statutory provisions. If such statutory provisions apply, to the extent to which We are entitled to do so, and subject always to the terms of these Conditions its liability shall be limited as its option to in the case of supply goods:
- (a) the replacement of the goods or supply of equivalent goods; or
 - (b) the payment of the cost of replacing the goods or acquiring equivalent goods; or
 - (c) the payment of the cost of having the goods repaired; or
 - (d) the repair of the goods.
- 9.6** We shall investigate any report of the occurrence of an Adverse Event or circumstances which may result in the occurrence of an Adverse Event (whether the report is made by You, an employee or contractor of US or any other person or entity). We shall promptly notify You of the results of, and any action taken with respect of any such investigation.
- 9. Limitation of Liability**
- (a) To the extent permitted by Law, and subject only to any express exception contained in this Agreement (including the exception contained in Conditions 10(b)), We shall under no circumstances be liable in any way whatsoever to You for any loss, damage or expenses sustained or incurred by You in consequence of, or resulting directly or indirectly out of the supply performance or any use of the Products, out of any breach of Us under any contract incorporating these Conditions or out of Our negligence.
- 10. Termination**
- 10.1** Either party has the right to immediately terminate or suspend supply of the Products without incurring liability to the other party in each of the following circumstances:
- (a) The defaulting party fails to take delivery of, or to pay for the Products within 7 days of the due date or otherwise breaches any other material term of this Agreement which is not capable of being remedied.
 - (b) The defaulting party enters into bankruptcy, liquidation, or a composition with its creditors, have a receiver or manager appointed over all of any of its assets, enter into administration or become insolvent or commit an act of bankruptcy.

- (c) Contractual performance by either party is delayed or prevented by a force majeure event being any event outside Our reasonable control including acts of God or the public enemy, power failure, industrial action, default or manufacturers or suppliers of any criminal act and that event continues for a period of 60 days or more.

10.2 Termination by the first party under clause 11.1 is without prejudice to that party's other remedies, and the right to recover payment for Products provided.

11. Your Warranties

11.1 The person signing any document which forms part of this Agreement on behalf of You warrants that he or she has Your authority to enter into and bind You to this Agreement on Your behalf and grant the security interests in connection with it.

11.2 You warrant that prior to the placement of any order, You have made Your own independent enquiries and satisfied itself as to the quality and fitness for purpose of the specification for the Products, and to the extent permitted by law, You are not relying on any warranty, promise, representation or inducement in relation to the Products or to enter into this Agreement, either expressly or implied by given by Us.

12. General

12.1 Neither party may without the other party's prior written consent assign or otherwise transfer any of its rights or obligations under this Agreement.

12.2 If a provision of this Agreement would, but for this clause be unenforceable:

- (a) the provision must be read down to the extent necessary to avoid that result;
- (b) if the provision cannot be read down to that extent, it must be severed without altering the validity and enforceability of the remainder of the Agreement.

12.3 This Agreement is governed by the laws of New South Wales and the parties subject to the jurisdiction of the Court of that date.