

PERRIGO CONDITIONS OF SALE - SEPTEMBER 2008

- 1a Any contract entered into with either of Galpharm International Limited, Brunel Pharma Limited and Wrafton Laboratories Limited (each known for the purposes of these Conditions as the "Company") comprises the Company's quotation and acceptance and is made on these conditions
- 1b These terms and conditions exclude all other terms and conditions subject to any rights and liabilities imposed by statute or otherwise. All additions thereto and variations thereof shall be of no effect unless agreed to by a director of the Company in writing. No other employee, representative, agent has authority to vary alter or amend the conditions in any way whatsoever
- 2a Any quotation given is to be taken only as referring to the quantity and type of product specified in the quotation
- 2b In the event of the Customer not requiring all the goods in an order to be supplied within a period of 5 (five) months and in the event of the Company agreeing to supply for a long period then the Company reserves the right to increase the quoted price in respect of the whole of the order.
- 3a The prices quoted may be increased by the Company at any time before delivery of the goods or before execution of the work if the costs thereof should rise between date of quotation and the date of delivery or in the event of any variation in the cost of material, labour, transport or other overheads between the date of the quotation and the completion of the work. Customers will be advised in writing of any such increase in price.
- 3b Value Added Tax is not included in the quoted price and will be charged separately.
- 4a The Company shall be entitled to invoice the Customer for the price of goods on or at any time after delivery.
- 4b Payment is to be net cash monthly account unless otherwise expressly agreed in writing.
- 5a In the event of late payment the Company shall have the right to make a surcharge in respect of allowing credit to the customer between the date of delivery and the date of payment at the rate of 3% (three percent) per annum above the UK bank's minimum base rate for the time being on the amount outstanding. In each such case the amount of the surcharge shall be separately invoiced.
- 5b The risk in the goods shall pass to the Customer on delivery but full legal and equitable ownership shall remain in the Company until payment in full has been made of amount outstanding to the Company. Until the Company is paid in full or all amounts owed by the Customer in respect of this or any other agreement the relationship of the Company to the Customer shall be fiduciary in respect of the products themselves or further goods in which the goods are incorporated or used and if the same are sold by the Customer the Company shall have the right to trace the proceeds of sale. Any such sale must be made on proper commercial terms and in the ordinary course of business and on the basis that the Customer holds the proceeds of sale on trust for the Company. Until payment in full the Customer shall clearly identify the goods as being the property of the Company.
- 5c If the Customer makes default in any payment or becomes insolvent or subject as debtor to the operations of the Bankruptcy Laws the Company may at its option without notice to the Customer withhold or cancel further deliveries, enter upon the premises of the Customer or that of its agent to retake possession of any goods the ownership of which remain with the Company and shall retain a lien for any amount outstanding on any goods the property of the Customer which may remain in the possession of the Company or its agents.
- 5d All payments in cash must be made direct to the Company and the Company's representatives or agents have no authority to accept payment in cash.
- 5e No order which has been accepted by the Company may be cancelled by the Customer except with the agreement in writing of the Company and on the terms that the Customer shall indemnify the Company in full against all loss (including loss of profits), costs (including the cost of all labour and materials used) damages, charges and expenses incurred to the Company as a result of the cancellation.
- 6a The Company undertakes to use its best endeavours to execute orders and to effect delivery in a reasonable time.
- 6b The Company shall not be liable for any failure to perform any part of the agreement if performance has been delayed, hindered or prevented by any circumstance whatsoever which is not within the control of the Company and is not preventable by reasonable diligence on its part and without prejudice to the generality of the foregoing the Company shall not be liable for failure to comply with any orders or request of any national, provincial, regional or local authority or any other person purporting to act as such or for any delays caused by strikes, lock-outs, Act of God or other event beyond their control. If the Company is at any time delayed, hindered or prevented from delivering in full or in part the whole or part of the work undertaken by the Company, by circumstance whatsoever which is not within the control of the Company and is not preventable by reasonable diligence on its part the Company shall be at liberty to withhold, suspend or reduce deliveries hereunder to such an extent as is reasonable in all these circumstances. The Customer shall thereupon be liable for rateable proportion of the prices agreed to be paid.
- 6c Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Customer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the contract with the Customer, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Company, 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.
- 7 Unless otherwise stated in writing and signed by a director the Company shall not be liable for any recommendations, advice, opinion or statement given or made by the Company, its servants, agents or representatives or by the manufacturer or any products sold or supplied by the Company.
- 8 Where graphics or printed components and/or Artwork of any kind for the production of printed components is that supplied by the Customer, the Customer shall indemnify the Company against any claims made against the Company in respect of such designs or wording.
- 9 The Customer shall indemnify the Company against any claims made against the Company for infringement of patent right or copyright arising with respect to any item or design supplied by the Customer to the Company.
- 10 Where materials or formulae are supplied or specified by the Customer before production commences, it shall be the responsibility of the Customer to satisfy itself that the formulation and materials are suitable for the purpose for which they are required and the Company shall not be responsible for any failure of such materials or formulae. The Company will however, if requested, produce a sample for approval by the Customer before production commences and provided that the goods supplied correspond with the sample such approval will constitute prima facie evidence that the Customer accepts that the goods fully comply with all the terms and conditions of this agreement. The Company reserves the right to make a charge for the production of pre-production samples.
- 11 Where materials are to be supplied by the Customer then they should meet all Health and Safety requirements (including COSHH).
- 12 The Customer shall not alter the formula of any product or the design of any item to be supplied by it without the prior written consent of the Company.
- 13 Normal working losses (here defined as 3% of the goods filled) shall be borne by the Company in respect of the goods and services supplied by the Company and by the Customer in respect of materials supplied by the Customer. In the event of losses exceeding normal working losses due to faulty materials supplied by the Customer the Company reserves the right to charge the Customer for such loss (less the normal working loss).
- 14 The Customer shall deliver at its expense all materials to be supplied by the Customer at the Company's factory or such other place as the Company shall require in such quantities as the Company shall require. The materials shall remain at the Customers risk until delivery.
- 15a All claims against the Company for loss or damage in transit of any goods shall be notified in writing to the Company and to the carriers with 14 (fourteen) days, Sundays and Public Holidays excepted, from the date of the invoice. In the event of a non-delivery of a consignment or any separate packages forming part of the consignment such notice shall be given within 7 (seven) days on receipt of either the consignment note or invoice.
- 15b All complaints of any kind must be made in writing to the Company and shall be made within 7 (seven) days, Sundays and Public Holidays excepted, of the customer becoming aware of the circumstances giving rise to the complaint.
- 15c Submission of the complaint shall not be a reason for non-payment or any delay in payment by the Customer.
- 16 For the avoidance of doubt it is hereby declared that the Company's written standard terms of business are to be read in conjunction with the provisions of the Unfair Contracts Terms Act 1977 or any statutory modification thereof: and the Customer's attention is drawn to his rights and duties under this Act.
- 17 If at any time any one or more of the provisions of these conditions becomes invalid, illegal or unenforceable in any respect under any law, the validity and enforceability of the remaining provisions shall not be affected or impaired thereby.
- 18 These terms shall in all respects be construed and have effect according to English law and any dispute or difference arising between the Company and the Customer arising from this contract shall on applicable of either party be referred to a single arbitrator in accordance with the provision of the Arbitration Act 1950 or any statutory modifications thereof.