

STANDARD CONDITIONS OF SALE

I. INTERPRETATION AND DEFINITIONS

“Affiliate”	means in relation to a party, any company which: (a) Controls or is Controlled by a party, directly or indirectly in any part of the world; or (b) is Controlled, (directly or indirectly,) by a party; or (c) who is Controlled, directly or indirectly, by one or more concerns, which themselves, either directly or indirectly Control a party.
“Business Day”	means a week day (other than a Saturday or public holiday) on which the clearing banks are open for business in Dublin;
“Contract”	means any contract or agreement between Supplier and the Customer for the supply of Goods by Supplier, incorporating, containing or referring to these conditions;
“Control”	Means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person, whether through the ownership of more than fifty (50) percent of the voting and/or equity rights, by contract or otherwise.
“Customer”	means the corporate entity (together with its Affiliates), partnership, firm or person who purchases Goods from the Supplier.
“Delivery Point”	means the place where delivery of the Goods to the Customer is to take place;
“Insolvency Event”	means any of the following events:- (i) (if the Customer is a company) where any proposal is made for a voluntary winding up within the meaning of section 564 of the Companies Act 2014 or a proposal is made for a composition, scheme of arrangement with (or assignment for the benefit of) its creditors or if the Customer is unable to pay its debts within the meaning of Section 570 of the Companies Act 2014 or a trustee, receiver, examiner or a similar officer is appointed in respect of all or a part of the business or assets of the Customer or a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the Customer or a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the Customer or a petition is presented to any court for granting of an examination order in respect of the Customer or any proceedings commence relating to the insolvency or potential insolvency of the Customer; or (ii) an order is made or resolution is passed, or any analogous proceedings are taken against the Customer in a jurisdiction outside Ireland for the winding up, administration, examinership, receivership or dissolution (other for the purposes of a solvent amalgamation or reconstruction) of the Customer; (iii) (if the Customer is an individual or a partnership) where the Customer dies (or in the case of a partnership, one partner dies) or, by reason of illness or incapacity (whether mental or physical) is incapable of managing his or her own affairs or becomes a patient under any mental health legislation or has a bankruptcy order made against him or is unable to pay his debts or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any legislation for the time being in force for the relief of insolvent debtors or any proceedings commence relating to the bankruptcy of or potential bankruptcy of the Customer; (iv) the Customer's financial position deteriorates to such an extent that in the Supplier's reasonable opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
“Goods”	means goods, services, articles, items or things which the Customer agrees to buy from Supplier;
“Premises”	means the relevant Supplier premises or depot from which deliveries are made to the Customer or such other Supplier premises or depot as notified by Supplier to the Customer from time to time; and
“Scheduled Delivery Date”	means the date upon which the Goods are scheduled for delivery; and
“Supplier”	means United Drug (Wholesale) Limited and any of its Affiliates.

The Customer and Supplier are each a “party” and together the “parties”.

- I.1. In these conditions, reference to these conditions or these terms and conditions shall include these terms and conditions and all amendments and supplements thereof.
- I.2. In these conditions reference to any statute or statutory provisions shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provisions as from time to time amended, consolidated, modified, extended, re-enacted or replaced.
- I.3. The use of headings shall not affect the construction of these terms and conditions.
- I.4. The use of the plural shall include the singular and the use of the singular shall include the plural.
- I.5. Reference to the masculine, feminine or neutral genders shall include each gender.
- I.6. Reference to a person includes any corporation, association, partnership or other entity as the case may be and includes its heirs, executors, administrators, successors and permitted transferees and assigns.

2. INCORPORATION OF TERMS

- 2.1. Subject to any variation under condition 2.4, the Contract will be on these terms and conditions to the exclusion of all other terms and conditions put forward by or on behalf of the Customer (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2. No terms or conditions endorsed upon, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document will form part of the Contract simply as a result of such document being referred to in the Contract and all conditions, terms or stipulations to the extent they are contrary or inconsistent herewith contained thereon are hereby excluded and extinguished.
- 2.3. These conditions supersede any prior agreements and understandings between Supplier and the Customer and represents the entire, complete and exclusive agreement and understanding of the parties hereto with respect to the subject matter hereof.
- 2.4. These conditions apply to all of Supplier's sales and any variations of these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by an authorised representative of Supplier.
- 2.5. Where Supplier has provided the Customer with a quotation, the same shall constitute an invitation to treat. All orders placed with Supplier by the Customer for Goods shall constitute an offer to Supplier and no Contract shall come into being until accepted by Supplier. Acceptance by Supplier of an offer by a Customer shall be in all circumstances conditional on the Goods (the subject of the order from the Customer) being currently in stock and capable of being delivered to the Customer. Therefore, notwithstanding acceptance by Supplier of an offer by a Customer, if all or part of the Goods (that are the subject of the offer) cannot be delivered by Supplier by reason of such Goods not currently being in stock or otherwise howsoever arising Supplier shall have no liability whatsoever to the Customer whether in contract, tort, by statute or otherwise howsoever arising out of or in connection with the non-delivery of all or part of the Goods ordered.
- 2.6. Each delivery of Goods under the Contract shall be deemed to constitute a separate enforceable Contract to which these terms and conditions apply.
- 2.7. Any liability of Supplier under these terms and conditions shall be subject to and conditional upon the due performance and observance by the Customer of all its obligations under these terms and conditions, and subject to these conditions, the Customer shall not be entitled to withhold or delay payment or exercise any right of set-off whatsoever and howsoever arising or arisen which might otherwise be available to it.
- 2.8. No failure, delay, relaxation or indulgence on the part or either party in exercising any power or right conferred upon such party by these terms and conditions or by law, shall operate as a waiver of such power or rights, or of any other power or right on any subsequent occasion.

3. PRICES/PAYMENT

- 3.1. Subject to conditions 3.2 and 3.3, any price quoted by Supplier is based upon the current price ruling as at the date of quotation.
- 3.2. The price for the Goods shall be exclusive of any Value Added Tax and (unless otherwise notified) all costs and charges in relation to loading, unloading, carriage and insurance, all of which the Customer will pay in addition to the price of the Goods when it is due to pay for the Goods.
- 3.3. Subject to condition 3.2, the price for the Goods supplied by all Suppliers (other than United Drug (Wholesale) Limited) will be those applicable at the date of despatch and Supplier reserves the right to amend its quoted price at any time prior to the date of despatch.
- 3.4. Subject to condition 3.2, the price for the Goods supplied by United Drug (Wholesale) Limited will be those applicable at the date of order and Supplier reserves the right to amend its quoted price at any time prior to the date of order.
- 3.5. Payment of the full price of the Goods (as invoiced) shall be made to Supplier without deduction within such period and in such manner as may be agreed between Supplier and the Customer from time to time **and in default of any express written agreement, within thirty (30) days end of month immediately following that in which delivery is made.** In addition to and without prejudice to any and all other remedies available to Supplier at either law or in equity, payment of any amount due is a condition precedent for starting further deliveries. All costs and losses to Supplier arising by virtue of the withholding of deliveries of Goods due to non- payment by the Customer shall be borne by the Customer. Notwithstanding any other provisions hereof, if Supplier shall deliver Goods to the Customer at any time when payment is due, such delivery shall be without prejudice to the rights of Supplier hereunder. The Customer hereby irrevocably and unconditionally agrees and acknowledges that failure to pay any amount due may also (at the absolute discretion of Supplier) result in, inter alia, the refusal by Supplier to provide further supplies; and/or refusal by Supplier to allow the Customer credit in respect of any further supplies; or the loss or suspension of any discounts expressly agreed with the Customer. Notwithstanding any agreement in respect of credit terms (referred to in this condition 3.5) should payments for any consignment of Goods become overdue then payment for all Goods provided by Supplier to the Customer will, at the discretion of Supplier, then become immediately due and owing and the Customer hereby covenants and agrees that in such circumstances it will, on demand, pay and discharge in full all sums outstanding (plus interest) to Supplier.
- 3.6. All payments which are not received when payable will be considered overdue and remain payable by the Customer together with interest for late payment at 4% above the then current base lending rate of Ulster Bank (Ireland) Limited in Dublin at the date on which the payment is due up until Supplier receives payment in full in cleared funds. Said interest shall accrue from the date payment is due until the date of actual payment on a daily basis before as well as after any judgment and is payable on demand. Supplier may, at its option and without prejudice to any other remedy at any time, after the payment has become due, suspend any further deliveries due under the Contract and enter in or upon the Customer's premises and take possession of the Goods on the relevant invoice or statement and the Customer hereby grants Supplier an irrevocable licence to enter it's premises at any time in such circumstances.
- 3.7. Subject as set out herein, any discounts allowed by Supplier shall be agreed by Supplier with the Customer from time to time and such discounts will be applied in the manner agreed between the parties from time to time and are subject to change at Supplier's absolute discretion.

4. DELIVERY

- 4.1. Save where the Delivery Point is the Premises, the Customer will make the Delivery Point available for inspection by appropriate Supplier staff before the Scheduled Delivery Date, if so required by Supplier. Unless otherwise specified by the Customer, delivery will be made to the Delivery Point stipulated by the Customer.
- 4.2. The Scheduled Delivery Date referred to on any quotation, sales order or elsewhere is approximate only and not of any binding contractual effect. Whilst Supplier will use all reasonable endeavours to meet any Scheduled Delivery Date, it shall not have any liability for loss or damage (including but not limited to loss of use (total or partial), loss of contract or loss of profits) incurred by the Customer as a result of any failure to deliver upon any particular date or dates, nor will any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 30 days.
- 4.3. If for any reason, the Customer will not accept delivery of any of the Goods when ready for delivery, or Supplier is unable to effect delivery on arrival at the Delivery Point for any reason whatsoever an additional charge for any return visit or subsequent visit may be levied on the Customer.

5. NON-DELIVERY

- 5.1. The quantity of any consignment of Goods as recorded by Supplier upon despatch from the Premises shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary within 2 Business Days of the date of the delivery of the Goods.
- 5.2. The liability of Supplier for non-delivery of the Goods shall be limited in all circumstances to replacing the Goods within a reasonable time or issuing a credit note at the original price in respect of the Goods undelivered. The Customer irrevocably acknowledges and agrees that the remedies in this condition 5.2 shall be the Customer's only remedies for non-delivery of Goods and that Supplier shall under no circumstances be liable for any consequential or incidental loss (including but not limited to loss of profits, loss of use, loss of bargain, loss of contract, loss of business opportunity, loss of goodwill or business interruption), arising out of non-delivery of Goods.

6. CANCELLATION/RETURNS POLICY

- 6.1. No cancellation of the whole or any part of any order, whether it is an order by instalment or otherwise, by the Customer is permitted except where agreed in writing in advance by an authorised representative of Supplier.
- 6.2. Supplier shall be entitled at all times to refuse to accept returns of Goods. If Supplier (in its absolute discretion) decides to accept returns and give credit in respect of returns such acceptance will be strictly on the basis set out in conditions 6.3 to 6.8 and subject as set out therein.
- 6.3. Goods for return/credit must be returned to the Premises within 2 Business Days of the delivery of such Goods by Supplier to the Customer and the Customer must be able to show documentary evidence of this.
- 6.4. Notwithstanding the fact that the Customer might in certain circumstances request Supplier's carrier to assist it in returning Goods, it shall be the sole responsibility of the Customer to return the Goods to the Premises and such Goods shall be at the risk of the Customer until same have been safely and securely delivered to the Premises and neither Supplier nor its carrier shall have any liability whatsoever in respect of Goods lost, damaged or stolen in transit to the Premises. If the Customer returns or purports to return Goods by providing them to Supplier's carrier then it must have documentary evidence showing that such Goods were given to Supplier's carrier.
- 6.5. Supplier shall be entitled to examine any Goods returned or purported to be returned by the Customer to ensure that they are free from defects arising as a result of the misuse, neglect, accident, improper storage, installation or handling by the Customer and/or to ensure that any Goods returned or purported to be returned have in fact been returned within 2 Business Days of delivery of such Goods and to the extent that any defect has so arisen or the Goods have not been returned within 2 Business Days of the delivery of such Goods, Supplier shall be entitled to refuse to accept the return of such Goods or part thereof and to refuse to give credit in respect of the return of such Goods or part thereof. In such circumstances Supplier will return such Goods to the Customer and the Customer shall be obliged to pay for such Goods in accordance with condition 3 and for the avoidance of doubt the Customer shall also discharge any carriage/delivery costs incurred by Supplier in connection with the return of such Goods.
- 6.6. Unless the Goods are defective (which defect must be brought to the attention of Supplier within 24 hours of the time of delivery at the Delivery Point), the Supplier will not accept the return (or provide credit in respect of the Goods returned) of any refrigerated Goods. **(THIS CLAUSE 6.6 SHALL NOT APPLY TO SALES BY UNITED DRUG CONSUMER.)**
- 6.7. In all instances (save in respect of defective Goods but subject to condition 6.5) Supplier may, at its absolute discretion apply a re-stocking fee of 7.5% of the invoice price of the Goods, which re-stocking fee will be charged to the Customer either (i) by way of a reduction in the amount of the credit note to be issued; or (ii) by adding an amount equivalent to the re-stocking fee to the Customer's account with Supplier.
- 6.8. Supplier reserves the right at its absolute discretion to charge delivery/carriage charges in respect of Goods requiring a special form of delivery. Should Supplier wish to apply such a charge in respect of the delivery the Customer will be informed of this in advance of the delivery being made. Without prejudice to the other provision of condition 6, should the Customer wish to return Goods that required such a special form of delivery Supplier will in all circumstances be entitled to charge a carriage charge with respect to the collection and return of the relevant Goods.

7. RISK/TITLE

- 7.1. Ownership of the Goods shall not pass to the Customer until Supplier has received in full (in cash or cleared funds) all sums due to it in respect of the Goods and all other sums which are or which become due to Supplier from the Customer on any account or otherwise howsoever arising. Notwithstanding that title in the Goods shall not pass to the Customer such Goods shall be at the risk of the Customer from the time of delivery of such Goods to the Customer.

- 7.2. Until ownership of the Goods has passed to the Customer, the Customer must:
- (i) hold the Goods on a fiduciary basis as Supplier's bailee;
 - (ii) store the Goods (at no cost to Supplier) in such a way that they remain readily identifiable as Supplier's property;
 - (iii) not destroy, deface or obscure any identifying mark or packing on or related to the Goods;
 - (iv) maintain the Goods in satisfactory condition, insured on Supplier's behalf for its full price against all risks to the reasonable satisfaction of Supplier. On request, the Customer shall produce the policy of insurance to Supplier; and
 - (v) hold the proceeds of any insurance claims in respect of the insurance referred to in condition (iv) above on trust for Supplier and not mix such proceeds with any other monies, or pay the proceeds into an overdrawn bank account.
- 7.3. Notwithstanding the passing of risk in relation to the Goods in accordance with condition 7.1, the Customer may resell the Goods before ownership has passed to it solely on the following conditions:-
- (i) any sale shall be effected in the ordinary course of the Customer's business and the Customer shall hold such part of the proceeds of sale as represents the amount owed by the Customer to Supplier on behalf of Supplier and the Customer shall account to Supplier accordingly; and
 - (ii) any such sale shall be a sale of Supplier's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale.
- 7.4. Supplier shall at all times be entitled to repossess all Goods supplied to the Customer to the extent that payment is overdue (in accordance with condition 3) in respect of any of the Goods supplied to the Customer and/or should any of the circumstances referred to in condition 7.5 arise, and thereafter to resell same. For this purpose, the Customer grants Supplier, its agents, employees or subcontractors (with or without vehicles) an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Customer's right to possession is terminated, to recover them.
- 7.5. The Customer's right to possession of the Goods supplied by Supplier to the Customer and for the avoidance of doubt the power to sell under condition 7.3 shall terminate immediately if:
- (i) payment (in accordance with condition 3) is overdue in respect of any Goods supplied;
 - (ii) an Insolvency Event occurs;
 - (iii) the Customer fails to observe/perform any of his/its obligations under the Contract or any other contract between Supplier and the Customer;
 - (iv) Supplier is of the view, acting reasonable and in good faith that any of the matters set out in sub-condition 7.5(i) to (iii)(inclusive) is/are either threatened or pending.
- 7.6. Supplier shall be entitled to recover payment for the Goods notwithstanding that ownership of the Goods has not passed from Supplier.
- 7.7. Where any of the events set out in sub-condition 7.5(i) to (iii)(inclusive) apply, the Customer's right to any discount as may have accrued (where applicable) shall automatically lapse and shall not be payable by Supplier.

8. LIMITATION OF LIABILITY – **THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE CONTENTS OF THIS CLAUSE 8**

- 8.1. Goods invoiced or supplied hereunder are not tested or sold as fit for any particular purpose and any term, warranty or condition express, implied or statutory to the contrary is (to the extent permitted by law) hereby excluded. In no circumstances whatsoever shall Supplier's liability (whether arising on contract, tort, breach of statutory duty or regulation or otherwise howsoever arising) exceed the invoice price of the particular Goods or part thereof concerned.
- 8.2. The terms of this Contract replace all conditions, warranties, representations, statements, liabilities and other terms whatsoever and howsoever implied by common law, statute or otherwise, all of which shall accordingly be excluded to the fullest extent permitted by law, and Supplier shall in relation to the Goods have no obligation to the Customer either arising by statute or in tort or in contract and whether arising out of any negligence of Supplier or any of its employees or agents (and whether under the Contract or under any other contract or arrangement) other than the express obligations contained in this Contract or in any other document expressly incorporated in writing into this Contract. Accordingly, it shall be for the Customer to insure against all liability arising from its use and/or sale of the Goods.
- 8.3. Nothing in these conditions shall limit or exclude Supplier's liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors or for fraud or fraudulent misrepresentation.
- 8.4. Supplier shall have no liability hereunder to the Customer (whether arising in contract, tort, breach of statutory duty or regulation or otherwise howsoever arising) for loss of profit, loss of use, loss of bargain, loss of contract, loss of business opportunity, loss of goodwill or any indirect or consequential loss.
- 8.5. The limitations/exclusions of liability set out in this condition 8 shall apply (mutatis mutandis) in respect of the officers, employees, agents and subcontractors of Supplier.

9. ASSIGNMENT

The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of Supplier. Supplier may assign the Contract or any part of it to any person, firm or company without the consent of the Customer.

10. FORCE MAJEURE

Supplier reserve the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Customer (without liability to Supplier), if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of

Supplier including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, extreme adverse weather conditions, outbreak of disease or epidemic, lock outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a period in excess of 14 continuous days, the Customer shall be entitled to give notice in writing to Supplier to terminate the Contract and should the Customer so terminate then all sums due to Supplier in respect of all Goods previously delivered and all other sums which are due or which may become due from the Customer on any account or otherwise howsoever arising shall become immediately due and payable and the Customer hereby irrevocably and unconditionally agrees to discharge such sums in full immediately.

11. SEVERABILITY

If and to the extent that any provision or any part of the provisions of Supplier's standard conditions of sale is illegal, void or unenforceable for any reason, then such provision or part thereof (as the case may be) shall be deemed to be severable from the remaining provisions or parts of the relevant provision (as the case may be) all of which remaining provisions shall remain in full force and effect.

12. WAIVER

The waiver by Supplier or any breach of any item hereunder shall not prevent the subsequent enforcement of that term and shall not be deemed a waiver of any subsequent breach.

13. COMPLIANCE

- 13.1 Each Party has drawn up its own code of conduct as well as compliance policies and processes. The Parties agree to conduct the business contemplated herein in full compliance with their respective own codes of conduct and compliance policies. In case the Customer does not have its own Code of Conduct and/or Compliance policies, the Customer undertakes to apply the "PHX Ireland Group Limited Code of Conduct", which can be accessed at <http://www.united-drug.com/corporate-social-responsibility/>
- 13.2 Within the scope of this mutual contractual relation, both parties shall at all times comply with all applicable laws and regulations, including but not limited to laws covering data protection, fair competition, trade controls, money laundering and anti-corruption.
- 13.3 Notwithstanding anything to the contrary in the Contract, neither party shall receive any funds under the Contract absent a written invoice. Each invoice submitted by a party shall itemize in detail the work that party has undertaken, and any reimbursable expenses incurred. Upon the receiving party's request, the invoicing party shall provide any additional reasonable information or clarification relating to the invoices or the underlying work or payments.
- 13.4 The Customer shall comply with all applicable international and national export and trade control laws and regulations, including but not limited to those of the United Nations, the United States of America and the European Union. In particular, the Customer shall not export or re-export, directly or indirectly, any products without the required government licences, approvals or waivers. The Customer agrees to indemnify and hold harmless the Supplier from all liabilities or costs incurred by the Supplier arising for any reason from or in connection with any export, import, regulatory, governmental or treaty violations in any jurisdiction by it, whether intentional or unintentional.
- 13.5 Each party shall promptly report to the other party any development that conflicts with the provisions in this clause 13. Notwithstanding anything to the contrary in this Agreement, the parties may terminate this Agreement with immediate effect prior to the expiration of the contract term if the other party commits a material breach of this provision of this Agreement which breach is irremediable or, if such breach is remediable, fails to remedy such breach or to agree with the non-breaching Party a plan to remedy such breach within thirty (30) days of receiving written notice to do so by the non-breaching Party.

14. GOVERNING LAW

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the laws of Ireland and the parties irrevocably submit to the exclusive jurisdiction of the courts of Ireland.