

## Centaur Services Limited T/A MWI Animal Health terms for the supply of goods

### 1. Definitions

- 1.1. In these terms and conditions of supply ("Terms"), the following terms shall have the following meanings:

**"Delivery"**: the delivery of the Goods to the address in the UK the Purchaser has registered with MWI or to any other address agreed by MWI in writing.

**"Goods"**: the products (or any part of them) described in the Order.

**"Insolvency Event"**: any of the following events: (a) the passing of a resolution for winding up or a court of competent jurisdiction making an order for winding up or dissolution; (b) the appointment of an administrator, receiver, administrative receiver;

(c) an encumbrancer taking possession of any assets; (d) being unable to pay debts within the meaning of section 123, Insolvency Act 1986; (e) ceasing to carry on business for more than 30 days.

**"Intellectual Property Rights"**: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or shall subsist now or in the future in any part of the world.

**"MWI"**: Centaur Services Limited (a company registered in England and Wales with company number 787385) trading as MWI Animal Health whose registered office is at Centaur House, Torbay Road, Castle Cary, Somerset BA7 7EU and each of its affiliated companies.

**"Order"**: an order for Goods submitted by the Purchaser in accordance with clause 2.

**"Price"**: the price payable for the relevant Goods, determined in accordance with clause 6.1.

**"Purchaser"**: the entity which purchases Goods from MWI, as set out in the Order.

**"Returns Note"**: the form which must be completed to make a return, available from MWI on request.

**"Specification"**: the description of the Goods, as set out on the label of the relevant Goods.

- 1.2. The words "include" and "including" shall be construed without limitation.
- 1.3. A reference to a law or statute is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

### 2. Basis of supply

- 2.1. Each Order submitted by the Purchaser to MWI constitutes an offer by the Purchaser to purchase the Goods subject to these Terms, which MWI shall be free to accept or decline at its discretion.
- 2.2. Each Order shall specify the type and quantity of Goods ordered. The Purchaser shall be responsible to MWI for ensuring the accuracy of the Order and for giving MWI any necessary information within a sufficient time to enable MWI to fulfil the Order in accordance with these Terms.
- 2.3. MWI shall use reasonable care and skill to provide accurate information through the bar codes of the Goods but accepts no liability for any information that is inaccurate. The Purchaser shall use its own expertise to ensure that the information provided by and within each bar code is correct.
- 2.4. No Order shall be deemed to be accepted by MWI, and no binding contract shall arise, until MWI issues an Order number to the Purchaser.
- 2.5. Price lists issued or made available to the Purchaser by MWI may be withdrawn or varied at any time.
- 2.6. No Order may be cancelled by the Purchaser except with the written agreement of MWI and on terms that the Purchaser shall indemnify MWI against any loss, costs, charges and expenses incurred by MWI as a result of cancellation.

- 2.7. MWI's employees and agents are not authorised to make any representations concerning the Goods unless confirmed by MWI in writing.

2.8. Any samples, illustrations or descriptive material contained in MWI's brochures, website, advertising material or elsewhere shall not form part of these Terms and shall be treated as for guidance only, unless specifically stated otherwise. MWI may from time to time, at the manufacturer's request, vary the design of the Goods, where relevant, from that advertised without notice to the Purchaser.

2.9. These Terms shall apply to and shall govern the supply of all Goods by MWI to the Purchaser to the exclusion of any other terms and conditions that the Purchaser seeks to impose or incorporate. No terms or conditions delivered with or contained in the Purchaser's order, acceptance of delivery or similar document shall apply to the Order and the Purchaser waives any right it may otherwise have to rely on such terms and conditions.

2.10. Except as expressly set out in these Terms, all warranties, conditions, representations or other terms whether express or implied by statute or common law, custom, course of dealing or otherwise (including satisfactory quality and fitness for purpose) are excluded to the fullest extent permitted by law.

### 3. Manufacturer's warranty for defective Goods

- 3.1. The Goods supplied under these Terms are manufactured by a third party manufacturer and MWI gives no warranties in relation to the Goods (save in relation to title, as set out in section 12, Sale of Goods Act 1979). MWI shall pass on to the Purchaser the benefit of any warranty or guarantee relating to the Goods as provided by the relevant manufacturer to MWI, where it is able to do so. Except as expressly set out in these Terms, the Purchaser's sole remedy in relation to any defective Goods shall be directly against the manufacturer of the Goods in accordance with the manufacturer's warranty or guarantee as set out on the label of the Goods, in documentation associated with the Goods, or on the website of the relevant manufacturer.
- 3.2. Accordingly, if the Purchaser becomes aware of any defect in the Goods, it shall notify, and deal directly with, the relevant manufacturer in relation to such defect. MWI shall have no liability in relation to any defect in the Goods (save where such defect arises as a result of the negligence of MWI).

### 4. Delivery

- 4.1. MWI shall endeavor to deliver the Goods to the address in the UK the Purchaser has registered with MWI or such other address agreed by MWI in writing.
- 4.2. Any dates given by MWI for Delivery of the Goods are estimates only and time for Delivery shall not be of the essence.
- 4.3. MWI may deliver Orders by instalments, which may be invoiced separately.
- 4.4. MWI shall endeavor to ensure that each Order is accompanied by an MWI delivery note and the Purchaser must sign any such delivery note accompanying the Goods.
- 4.5. If the Purchaser: (a) fails to take Delivery of the Goods when Delivery is attempted by MWI; or (b) fails to give MWI adequate delivery instructions (otherwise than by reason of any cause beyond the Purchaser's reasonable control or by reason of MWI's fault), then, without prejudice to any other right or remedy available to MWI, MWI may: (i) hold the Goods until actual Delivery and charge the Purchaser for its reasonable costs including return and re-delivery costs; and/or (ii) sell the Goods to another customer.
- 4.6. Unless otherwise specified, the Price includes the costs of packaging, insurance and transport to the delivery location.

### 5. Title and risk

- 5.1. The risk of loss of or damage to the Goods shall pass to the Purchaser on Delivery.
- 5.2. Ownership of the Goods shall not pass to the Purchaser until the earlier of: (a) MWI receives in cash or cleared funds payment in full for the Goods and all other goods agreed to be sold by MWI to the Purchaser for which payment is due; and (b) the Purchaser

resells the Goods, in which case ownership shall pass to the Purchaser at the time specified in clause 5.4.

- 5.3. Until such time as property in the Goods passes to the Purchaser, the Purchaser shall: (a) hold the Goods as MWI's fiduciary agent and bailee; (b) store the Goods (at no cost to MWI) separately from all other goods held by the Purchaser so that they are clearly identifiable as MWI's property, and shall procure that the Goods are so stored when they are in the possession of any third party; (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; (d) keep the Goods properly stored, protected and insured on MWI's behalf for their full price against all risks, with a reputable insurer; and (e) give MWI such information relating to the Goods as MWI may from time to time request.
- 5.4. The Purchaser may resell the Goods in the ordinary course of its business before MWI receives payment for the Goods (unless MWI revokes such entitlement in writing). If the Purchaser does so: (a) it does so as principal and not as MWI's agent; (b) title to the Goods shall pass from MWI to the Purchaser immediately before the time at which resale by the Purchaser occurs. The proceeds of any such sale received by the Purchaser in respect of such Goods shall be held by the Purchaser as trustee for MWI, shall not be mixed with any other monies and shall at all times be identifiable as, and available to MWI as, a fund from which the Purchaser's liabilities to MWI, whether in respect of these Terms or otherwise, can at the discretion of MWI be discharged.
- 5.5. Unless the Purchaser receives prior written consent from MWI, the Purchaser's right to possession of and to resell the Goods shall terminate immediately if the Purchaser suffers an Insolvency Event.
- 5.6. Until the property in the Goods passes to the Purchaser and where payment for such Goods is overdue MWI shall be entitled at any time: (a) to enter the premises where the Goods are stored to inspect them; and (b) to require the Purchaser to deliver up the Goods to MWI and, if the Purchaser fails to do so forthwith, to enter any premises of the Purchaser or any third party where the Goods are stored and repossess the Goods.
- 5.7. The Purchaser shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of MWI, but if the Purchaser does so, all monies owing by the Purchaser to MWI shall (without prejudice to any other right or remedy of MWI) forthwith become due and payable.
- 6. Price**
  - 6.1. The Price shall be the list price for the relevant Goods as set out on MWI's website at the time of the Order or as otherwise agreed in writing by MWI and the Purchaser.
  - 6.2. Any settlement or other discount to the Price applicable to the Purchaser must be agreed in writing by an authorised representative of MWI.
  - 6.3. The Price shall be exclusive of amounts in respect of VAT and the Purchaser shall pay VAT in addition to any Price or other consideration on receipt of a valid VAT invoice.
- 7. Invoicing and payment**
  - 7.1. MWI shall be entitled to invoice the Purchaser for each Order on or at any time after Delivery. The Purchaser shall pay the invoiced amount within 30 days of the date of invoice, or such other period as may be agreed between the parties in writing.. The time of payment shall be of the essence. All payments shall be made in full without deduction in respect of any set-off or counterclaim.
  - 7.2. If the Purchaser fails to pay any amount due and payable by it under these Terms by the due date, then without prejudice to any other right or remedy available to MWI, MWI shall be entitled to: (a) terminate any Order and suspend any further deliveries to the Purchaser; (b) appropriate any payment made by the Purchaser to such of the Goods (or the goods and/or services supplied under any other contract between the Purchaser and MWI) as MWI may think fit (notwithstanding any purported appropriation by the Purchaser); and (c) charge the Purchaser interest on the overdue amount at a rate of 4% per annum above the Bank of England base rate (such interest being deemed to accrue from day to day and being compounded on the last day of each calendar month) from the due date to the date of actual payment.

## **8. Acceptance**

- 8.1. The Purchaser must notify MWI in writing of any non-delivery of any Order within 3 days of the date of MWI's invoice.
- 8.2. Goods shall be deemed accepted by the Purchaser on signing the delivery note accompanying the Goods or, if there is no delivery note or no signature, on Delivery.
- 8.3. If any Goods are missing from an Order, or if there is any damage to the Goods which is apparent on Delivery, the Purchaser shall notify MWI in writing within 3 days of Delivery and MWI shall, at its option, replace the missing or damaged Goods or repay the price of the missing or damaged Goods in full.

## **9. Return of non-defective Goods**

- 9.1. Non-defective Goods may only be returned to MWI for credit/refund in the circumstances set out in the MWI Returned Goods Policy: <https://www.mwiah.co.uk/Returned-Goods-Policy>. In the event that the Purchaser wishes to return any non-defective Goods which are capable of return to MWI, it shall obtain a Return Note from MWI and shall comply with the return procedure set out in MWI's Returned Goods Policy.
- 9.2. All Goods which are capable of return in accordance with MWI's Returned Goods Policy (linked in Section 9.1) must be in perfect original condition, not marked in any way, must not show any evidence of being tampered with (including the opening of the outer packaging of the Goods) and must carry the original bar codes and/or article numbers. If returning multiple Goods, they must be packaged in quantities of 20kg or less. Any Goods whose inner packaging has been opened shall not be accepted for return for credit/refund.

## **10. Product recall**

- 10.1. The Purchaser shall employ and maintain appropriate, up-to-date and accurate traceability records to enable the immediate return of any Goods, or batches of Goods, to MWI in the event of a product recall. Such records shall be available for inspection by MWI.
- 10.2. The Purchaser shall, at the cost of MWI and as a matter of urgency, give any assistance that MWI shall reasonably require to carry out a product recall of any Goods.

## **11. Termination**

- 11.1. Without prejudice to any other right or remedy it may have, MWI shall be entitled to terminate an Order with immediate effect by giving written notice to the Purchaser if the Purchaser: (a) commits a material breach of its obligations under an Order which is irremediable or which fails to be remedied within 10 days; (b) commits, or any of its employees, agents or subcontractors commit, any act which brings MWI into disrepute or which in MWI's reasonable opinion is prejudicial to its interests; (c) undergoes a change of control where the entity acquiring control is a competitor of MWI and for the purposes of this clause, "control" shall have the meaning given in section 1124, Corporation Tax Act 2010; or (d) suffers an Insolvency Event.
- 11.2. MWI shall be entitled to terminate an Order on written notice if any undisputed payment relating to that Order is overdue by more than 30 days, provided that MWI has notified the Purchaser that such payment is overdue.

## **12. Intellectual Property Rights**

As between MWI and the Purchaser, MWI owns the Intellectual Property Rights in the Goods. The Purchaser agrees that the Intellectual Property Rights in the Goods may not be reproduced or used in any way except with the prior written consent of MWI. MWI does not warrant or give any assurance to the Purchaser that any Intellectual Property Rights in the Goods do not infringe the Intellectual Property Rights of any third party.

## **13. Confidentiality**

Except with the consent of the disclosing party or as required by law, a court order or by any relevant regulatory or government authority or to the extent that information has come into the public domain through no fault of the receiving party, each party shall treat as strictly confidential all commercial and technical information relating to the other party received or obtained as a result of entering into or performing these Terms including but not limited to information which relates to the subject matter of these Terms ("**Confidential Information**"). Each party may share the other party's Confidential Information with its affiliates, consultants or employees to the extent necessary for provision or receipt of the Goods.

## 14. Data Protection

- 14.1. For the purposes of this clause, (a) "**Data Protection Laws**" means any applicable laws and regulations in any relevant jurisdiction relating to the use or processing of Personal Data including: (i) EU Regulation 2016/679 ("**GDPR**"); (ii) any laws or regulations ratifying, implementing, adopting, supplementing or replacing the GDPR (including, in the UK, the Data Protection Act 2018 and (to the extent in force) the UK GDPR as defined in The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 ("**UK GDPR**"); and (iii) any laws and regulations implementing or made pursuant to EU Directive 2002/58/EC (as amended by 2009/136/EC) (including, in the UK, the Privacy and Electronic Communications (EC Directive) Regulations 2003); in each case, as updated, amended or replaced from time to time; and (b) the terms "**Data Subject**", "**Personal Data**", "**processing**" and "**processor**" shall have the meanings set out in the GDPR.
- 14.2. Each party shall comply with the provisions and obligations imposed on it by the Data Protection Laws when processing Personal Data in connection with these Terms.
- 14.3. To the extent that a party processes any Personal Data on behalf of the other party, the processing party shall: (a) comply with the provisions and obligations imposed on a processor by the GDPR, including the stipulations set out in Article 28(3)(a)-(h) which form a part of, and are incorporated into, these Terms as if they were set out in full, and the reference to "documented instructions" in Article 28(3)(a) shall include the provisions of these Terms; and (b) not disclose any Personal Data to any Data Subject or to a third party other than at the written request of the other party except or as expressly provided for in these Terms.
- 14.4. If either party receives any complaint, notice or communication which relates to the processing of Personal Data by the other party or to either party's compliance with the Data Protection Laws, or if any Personal Data processed in connection with these Terms is subject to a personal data breach (as defined in the GDPR), it shall immediately notify the other party and provide the other party with reasonable co-operation and assistance in relation to any such complaint, notice, communication or personal data breach.

## 15. Force majeure

MWI shall not be liable to the Purchaser or be deemed to be in breach of these Terms by reason of any delay in performing, or any failure to perform, any of MWI's obligations in relation to the Goods, if the delay or failure was due to any cause beyond MWI's reasonable control including without limitation: (a) natural disaster, explosion, flood, tempest, fire, accident, pandemic, epidemic or outbreak; (b) strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of MWI or third parties); (c) war or threat of war, sabotage, insurrection, civil disturbance or requisition; (d) import or export regulations or embargos, travel restrictions or governmental action; and (e) acts or omissions on the part of suppliers or third parties engaged by MWI, and liquidity or solvency problems.

## 16. Liability

- 16.1. Nothing in these Terms shall be deemed to limit or exclude the liability of MWI for: (a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; or (c) any other liability which cannot be limited or excluded at law.
- 16.2. Subject to clause 16.1, MWI shall not be liable to the Purchaser for the following loss or damage whether in contract, tort (including negligence), breach of statutory duty or otherwise, howsoever caused and even if foreseeable by MWI: (a) loss of profits, business, contracts, revenues, goodwill; and (b) indirect or consequential loss; (c) loss arising from any claim made against the Purchaser by any other person.
- 16.3. Subject to clauses 16.1 and 16.2, MWI's aggregate liability, whether in contract, tort (including negligence), breach of statutory duty or otherwise, in connection with or arising from each Order shall not exceed the greater of the Price or £500.

## 17. General

- 17.1. The Purchaser shall not be entitled to sub-contract, transfer, novate or assign the Order or these Terms either wholly or in part to any third party without MWI's prior written consent.

- 17.2. No provision of these Terms is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
- 17.3. No single or partial exercise or failure or delay in exercising any right, power or remedy by either party shall constitute a waiver by that party of, or impair or preclude any further exercise of that or any right, power or remedy arising under these Terms or otherwise.
- 17.4. To the extent that any provision of these Terms is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision will be deemed not to be a part of these Terms, it will not affect the enforceability of the remainder of these Terms nor will it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.
- 17.5. Any notice to be given to a party under these Terms shall be in writing (which excludes email) signed by or on behalf of the party giving it, and shall be delivered personally, or sent by recorded delivery, to the address of the party set out in these Terms or on the Order. Either party may, by a notice given in accordance with this clause, change its address for the purposes of this clause. A notice shall be deemed to have been served: (a) at the time of delivery if delivered personally; or (b) 3 days after posting in the case of an address in the United Kingdom and 7 days after posting for any other address.
- 17.6. These Terms constitutes the entire agreement and understanding of the parties with respect to the subject matter of these Terms and supersede any prior agreements, representations or arrangements between the parties (oral or written) in relation to such subject matter. Each party acknowledges that: (a) upon entering into these Terms, it does not rely, and has not relied, upon any representation (whether negligent or innocent), statement or warranty made or agreed to by any person (whether a party to these Terms or not) except those expressly set out in these Terms; and (b) the only remedy available in respect of any misrepresentation or untrue statement made to it shall be a claim for breach of contract under these Terms.

## 18. Governing law and jurisdiction

- 18.1. These Terms, the Order and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with them shall be governed by the law of England and Wales.
- 18.2. The parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with these Terms, an Order, their subject matter or performance.