

Product Purchase Terms of Sale - Primary Care

These terms of sale ("**Terms of Sale**") apply to all product and/or service ("**Product**") purchases made by you ("**Customer**"). The term "**Customer**" as used herein shall mean any entity purchasing products from Seller, including but not limited to, any Customer Facilities or locations. Customer agrees to pay for all purchases of Products, fees, and other charges incurred by Customer or any authorized agent on behalf of Customer, including purchases shipped and/or billed to a third-party agent on behalf of Customer. Customer cannot modify these Terms of Sale without our (McKesson Medical-Surgical Inc., herein "**Seller**") written consent and these Terms of Sale supersede the terms and conditions on any purchase order or other business form. Prior courses of dealing between us will have no effect on these Terms of Sale and would be inadmissible to explain, modify, or contradict these Terms of Sale. The term "**Facility**" means any facility with respect to which Customer exercises control over the selection of wholesale medical-surgical distributor, whether by ownership, contract or otherwise. The term "**Supplier**" as used in these Terms of Sale means a manufacturer, vendor, or other supplier of a Product that is purchased by Seller for distribution.

1. Invoice, Payment, and Finance

1.1 Standard Credit and Payment Terms. All invoiced amounts are due within thirty (30) days of the date of the invoice, unless stated otherwise on the invoice. If any of the specified payment term due dates fall on a weekend day or holiday, payment is due and payable on the preceding business day. Any invoiced amount remaining unpaid after the due date will be "**Past Due**." Past Due balances are subject to service or finance charges at the highest rate permitted by law, or one and one-half percent (1.5%) per month, whichever is higher. Any interest charged and collected in excess of applicable state law will be returned. Any payment made after the due date shall result in the loss of any prompt cash payment discount specified on the related invoice or statement and Customer shall pay the gross amount plus any applicable service or finance charges. If Customer fails to pay any or all of the invoiced amount when due or if Customer's credit or financial status erodes or otherwise renders Seller insecure, Seller may, in its sole discretion: (i) immediately suspend Seller's performance or cancel all or any part of an order hereunder, (ii) change any payment term to a payment term determined by Seller (including imposing the requirement of cash payment upon delivery); (iii) pay any incentives, rebates, fees, or other discount arrangements net of (a) any amounts due hereunder from Customer, or (b) unauthorized deductions and service charges (iv) terminate and/or declare Customer ineligible for any incentives, rebates, fees, or other discount arrangements; (v) declare immediately due and payable all other amounts invoiced by Seller to Customer regardless of when such payments would otherwise be due from Customer, and/or (vi) increase the prices for Products and/or services. A credit program, if any, offered by Seller is intended for commercial purposes only, and not as a 'consumer' credit program used primarily for personal, family or household purposes.

1.2 Customer agrees to render payment in full to Seller on the applicable due date without making any deductions or adjustments to such payment obligation; or seeking to condition such remittance on any demand for or receipt of proofs of delivery.

1.3 In the event Customer files or is involved in any bankruptcy, insolvency or similar case or proceeding, Seller shall apply any amounts owed by Seller to Customer, first to any pre-bankruptcy, non 11 U.S.C. § 503(b)(9) claims, and then to the 11 U.S.C. § 503(b)(9) claims.

1.4 Seller may set off any amount owing at any time from Customer (and with respect to any Customer account) to Seller (including its subsidiaries and affiliates) against any amount payable at any time by Seller to Customer, whether arising under these Terms of Sale or otherwise.

1.5 Any account opened in favor of Customer is subject to credit approval by Seller.

1.6 Customer agrees to provide Seller with financial statements upon request. Customer authorizes Seller, its employees, representatives, and agents to (i) investigate information provided and Customer's credit, financial and banking records, (ii) obtain Customer's credit bureau report, (iii) conduct a background check, and screen Customer against the Department of Health and Human Services Office of Inspector General's List of Excluded Individuals/Entities and the General Services Administration List of Parties Excluded from the Federal Procurement and Non-Procurement Programs, and (iv) share experiential and transactional information regarding Customer and Customer's account with its affiliates, credit reporting agencies, and manufacturers of certain pharmaceutical products (if such products are purchased by Customer through Seller). Seller is authorized to retain information obtained as part of the application process whether or not the requested account and/or credit is granted. Customer hereby unconditionally guarantees the performance of all obligations of any of its facilities under these Terms of Sale, including the prompt payment of the purchase price and any applicable service or finance charges and other charges for all Products shipped to the facilities, and agrees to pay any outstanding past due amounts to Seller immediately upon demand by Seller.

1.7 Customer agrees to pay all reasonable attorney fees and expenses or cost incurred by Seller in enforcing its rights to collect amounts due from Customer.

1.8 Taxes. All amounts payable under these Terms of Sale are exclusive of sales, use, value-added, gross receipts, and other transaction taxes ("**Transaction Taxes**"). Customer will promptly pay and indemnify Seller against all such Transaction Taxes legally imposed upon and payable by Customer, unless Customer provides Seller satisfactory evidence of a valid tax exemption within applicable statutory requirements. Seller shall be fully responsible for and not entitled to any reimbursement for any taxes imposed upon Seller's net income, unemployment insurance or social insurance or pensions, maintained pursuant to any laws, ordinances, codes or regulations.

1.9 Federal Equal Credit Opportunity Act. The Federal Equal Credit Opportunity Act prohibits creditors from discriminating due to race, color, religion, national origin, sex, marital status, age; or because all or part of the Customer's income is from any public assistance program; or the Customer, in good faith, exercises any right under the Consumer Credit Protection Act. The Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580 administers compliance with this law. Customer represents and warrants that all Customer information included on its invoice is complete and correct. Customer agrees that Seller will be relying on such information and will notify Seller of any material changes to such information.

2. Discrepancies. Seller will have no obligation to resolve and Customer will hold Seller harmless and waive any rights to any discrepancy or to issue any credit or refund, or to replace any goods if such claim is not made within the applicable period below. All requests for proof of delivery must be made within sixty (60) days of Seller's invoice date.

2.1 Shipment Discrepancies. Any discrepancy between any order placed by Customer and Seller's corresponding shipment(s) must be reported to Seller for resolution within ten (10) days of Seller's invoice date.

2.2 Price or Payment Discrepancies. Any price or payment discrepancies or any claims for reimbursement must be reported to Seller for resolution before the applicable invoice is due.

3. Non-Disposable Products. Non-disposable Products, such as furniture and equipment, sold by Seller may be refurbished or reconditioned.

4. Freight Charges. Shipping and handling charges, if any, for standard deliveries will be mutually agreed upon by separate agreement or by disclosure on the invoice. Shipping and handling charges may be added to the shipping invoice for deliveries outside the contiguous forty-eight (48) states, additional deliveries, emergency orders, rush orders, orders for Products not regularly stocked by Seller's local servicing distribution center, cold chain orders, hazmat orders, bulk freight, and Products drop shipped from the Supplier. For orders less than Seller's minimum order requirement, Seller may add to the invoice a handling charge determined by Seller and disclosed to Customer prior to or at the time of order. A fuel surcharge, if applicable, may be added to the invoice. Detailed information on the fuel surcharge can be obtained by request. Seller has the right to ship Products at all times via its own vehicle or a carrier selected by Seller. For delivery directly to an end-user patient/consumer's place of residence made at the direction of Customer ("**Patient Home Delivery**"), in addition to Patient Home Delivery shipping and handling fees, Seller may charge Customer additional surcharges, including, but not limited to, signature fees, address or billing information correction fees, delivery area surcharges, and other accessorials fees.

5. Title and Risk of Loss. For delivery without any patient/consumer designation or segregation (e.g., bulk delivery), title and risk of loss for the Products will pass to Customer at the time the Products reach their designated destination, except that drop shipments directly from a Supplier will be shipped in accordance with the Supplier's shipping policies. For Patient Home Delivery, ownership of the Products will transfer to Customer at the time Customer places the Product order with Seller but risk of loss will remain with Seller until the Products reach their designated destination.

6. Third-Party Logistics Provider Services. If Seller is providing third-party logistics provider services to Customer or otherwise providing direct patient/consumer shipment services for Customer, Customer represents and warrants that (i) it has all required permits, licenses and prescriptions/physician orders necessary to dispense or administer Products to its patients, including, without limitation, all required licenses to dispense or administer the Products into the states in which Customer dispenses, administers or sells Products and (ii) it has verified that all recipients of the Products are appropriately registered or otherwise authorized to receive delivery of the Products. Customer is solely responsible for confirming that the Products ordered are appropriate and medically necessary for its patients and in compliance with the required prescriptions or physician orders.

7. Return and Refund Policy. Subject to applicable law, Seller will process returns and refunds in accordance with its Return and Refund Policy currently in effect, or as otherwise agreed to by Seller and Customer. Seller's current Return and Refunds Policy is as follows:

- All requests for credits for Products must have a return authorization number issued by Seller's customer service department or Seller's automated customer service platform (e.g., McKesson SupplyManagerSM).
- Seller will issue a full credit for any Product returned due to Seller error (i.e., shipping error, damage in transit) or due to a recall or defective condition.
- The following Products are not eligible for a credit, unless the return is due to Seller error, recall, or defective condition: (i) special order Products; (ii) custom Products; (iii) Products identified as non-returnable in McKesson SupplyManager; (iv) Products not available for general or unrestricted distribution; (v) refrigerated or frozen (cold chain) Products other than certain flu or core vaccines; and (vi) nonsalable Products. Nonsalable Products include, but are not limited to, Products that are open, damaged, below minimum acceptable product dating set by Seller (available at mms.mckesson.com on the product detail page), hazmat, controlled pharmaceuticals, discontinued by the manufacturer, or that contain markings not made by Seller.
- Seller will issue a credit as follows for McKesson brand products purchased directly from Seller: if returned within 1 year of invoice date – Full amount; if returned after 1 year – No credit. Non-consumable McKesson brand products must be sent back to Seller's distribution center to be eligible for a credit and are subject to inspection by Seller before credit is issued to Customer. Consumable McKesson brand products should not be sent back to Seller's distribution center. If a McKesson brand product is not purchased directly from Seller, no return for credit will be honored.
- Seller will issue a credit as follows for all other eligible Products:
 - A Product stocked in Seller's distribution center that is less than \$15: if requested within 180 days of invoice date – Full amount; if requested after 180 days – No Credit. Such Product is not required to be sent back to Seller to be eligible for a credit.
 - A Product stocked in Seller's distribution center that is \$15 and greater: if returned within 30 days of invoice date – Full amount; if returned between 30-180 days – Full amount, less a restocking fee per Product; if returned after 180 days – No Credit. Such Product must be sent back to Seller to be eligible for a credit and is subject to inspection by Seller before credit is issued to Customer.
 - A Product NOT stocked in any of Seller's distribution centers that is less than \$100 – No Credit
 - A Product NOT stocked in any of Seller's distribution centers that is \$100 – \$500 : if returned within 180 days of invoice date – Full amount, less Seller and vendor restocking fees per Product; if returned after 180 days – No Credit.
 - A Product NOT stocked in any of Seller's distribution centers that is greater than \$500 requires additional approval by Seller. Such Product must be sent back to Seller to be eligible for a credit and is subject to inspection by Seller before credit is issued to Customer.

8. AED Devices. Customer acknowledges that Customer may purchase automated external defibrillator ("**AED**") devices from Seller; however, AED compliance and/or training programs, if any, will only be offered and performed by a third party, not Seller.

9. Security Interest. Customer hereby grants to McKesson Corporation, a Delaware corporation, for itself and as collateral agent for each of its affiliates, including but not limited to, McKesson Medical-Surgical Inc. and McKesson Medical-Surgical Minnesota Supply Inc. ("**McKesson**"), a security interest in and lien on all of Customer's right, title, and interest in and to any inventory and/or equipment purchased from Seller and all products and proceeds thereof, as security for Customer's payment obligations hereunder. Customer hereby authorizes McKesson to file any UCC financing statement or amendment that McKesson considers necessary to perfect or protect such security interest. If Customer defaults under these Terms of Sale or under any payment obligations to McKesson and its affiliates, Seller has all rights and remedies under applicable law for enforcement of its security interest, which may include the right to self-help repossession of such equipment.

10. Chargebacks. In consideration of Seller allowing Customer to purchase Products at discounted prices, Customer agrees that Seller will be paid the difference between Seller's acquisition cost and the discounted cost of the Product from the applicable Supplier ("**Chargeback(s)**"). In the event Seller is denied any Chargeback from a Supplier as a result of Customer providing incomplete, inaccurate, or incorrect information to Seller or Supplier, Customer will be liable to Seller for such Chargeback amount. In the event Supplier: (i) makes an assignment for the benefit of creditors, files a petition in bankruptcy, is adjudicated insolvent or bankrupt, or if a receiver or trustee is appointed with respect to a substantial part of Supplier's property or a proceeding is commenced against it which will substantially impair its ability to pay on Chargebacks; or (ii) otherwise defaults in the payment of Chargebacks to Seller, Customer will be invoiced and become liable for the unpaid Chargebacks allocable to its purchases from Supplier.

11. Force Majeure. Except for the obligation to pay money, a party will not be liable to the other party for any failure or delay caused by a Force Majeure Event, whether or not such matters were foreseeable, and such failure or delay will not constitute a material breach of these Terms of Sale. "**Force Majeure Event**" means any cause beyond the reasonable control of a party including but not limited to natural disasters or acts of God; destruction of production facilities; acts of war; terrorism; riots; embargoes; acts of civil or military authorities; voluntary or involuntary compliance with any regulation, law or order of any government; labor disputes or stoppages; denial of or delays in processing of export license applications; transportation delays; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies; unavailability of materials, energy or machinery; or internet system encountering hacker's invasion. Furthermore, Seller is not a manufacturer of items and therefore is not able to prevent and is not liable for industry-standard supply chain issues such as manufacturer backorders, discontinuations, or allocations due to high demand or short supply.

12. Product Recommendations. Seller may make available to Customer certain recommendations concerning products that are comparable, functionally equivalent, clinically equivalent, or equivalent to other products used or identified by Customer ("**Equivalency Recommendations**").

Customer agrees and stipulates that, in making any Equivalency Recommendation, Seller is relying solely on the independent skill, knowledge and judgment of its Suppliers or others in the industry and is not independently providing medical product information upon which Customer can rely in order to make its product selection decision. Customer agrees and stipulates that in making product decisions Customer is relying on its independent professional judgment. Customer hereby agrees to waive, release, indemnify and hold Seller and its affiliates harmless from any claim arising from an Equivalency Recommendation. Customer agrees and stipulates that it is a sophisticated user of medical products and it agrees and stipulates that it is a learned intermediary between Seller and the end user/patient.

THESE EQUIVALENCY RECOMMENDATIONS MAY BE MADE VERBALLY, IN WRITING OR VIA A DATABASE. THE EQUIVALENCY RECOMMENDATIONS ARE RECOMMENDATIONS ONLY AND ARE NOT REPRESENTATIONS OR WARRANTIES CONCERNING ANY PRODUCT PERFORMANCE OR EQUIVALENCY AND ANY SUCH REPRESENTATIONS OF WARRANTY ARE HEREBY DISCLAIMED. THESE EQUIVALENCY RECOMMENDATIONS ARE BASED UPON MATERIALS SUPPLIED BY SELLER'S SUPPLIER AND OTHER INDUSTRY-AVAILABLE INFORMATION.

The Switch & Save program is an automated tool that shows Customer's savings available by switching from products in Customer's current purchasing history to alternative products from the Customer's current purchasing history. Alternative products are not necessarily the lowest priced items available.

13. DISCLAIMER. SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY OF ANY PRODUCTS OR THEIR FITNESS FOR ANY PARTICULAR USE OR PURPOSE. CUSTOMER WILL LOOK TO THE MANUFACTURER OF PRODUCTS AND THE PROVIDER OF SERVICES (IF OTHER THAN SELLER) FOR ANY WARRANTY THEREON. NO AGENT, EMPLOYEE, OR REPRESENTATIVE OF SELLER HAS ANY AUTHORITY TO MAKE ANY AFFIRMATION, REPRESENTATION, OR WARRANTY CONCERNING PRODUCTS NOT SET FORTH IN THESE TERMS OF SALE.

CUSTOMER SHALL NOT HOLD SELLER LIABLE FOR ANY DEFECT IN PRODUCTS OR DEFECT IN SERVICES NOT PROVIDED BY SELLER, REGARDLESS OF KIND. CUSTOMER AGREES TO FILE SOLELY WITH THE MANUFACTURER OF THE PRODUCTS OR PROVIDER OF SERVICES (IF OTHER THAN SELLER) ANY CLAIM OR LAWSUIT ALLEGING LOSS, INJURY, DAMAGE, OR DEATH ARISING OUT OF OR CAUSED BY THE USE, SALE, DISTRIBUTION, OR POSSESSION OF PRODUCTS OR SERVICES.

14. LIMITATION OF LIABILITY. IN NO EVENT WILL SELLER BE LIABLE IN CONNECTION WITH, OR RELATED TO THESE TERMS OF SALE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE, (INCLUDING LOST PROFITS) FROM ANY CAUSE, INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM ANY UNAVAILABILITY OF, DEFECT IN, OR MISSHIPMENT OF PRODUCTS OR THE PROVISION OF SERVICES, AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

15. Government Contracts. Unless specifically notified and agreed to in writing by Seller, Customer is expressly prohibited from either directly or indirectly marketing or reselling Products to (i) the United States federal government; or (ii) any United States state and local government agencies, public education institutions, and state and local government healthcare entities; or (iii) any entities that the Customer knows or reasonably should know will market or resell to United States federal, state, or local government agencies. Seller will not be bound by the terms and conditions of any government contracts to which Customer may be a party.

16. No Violations. Customer represents and warrants that its execution, delivery and performance of these Terms of Sale does not and will not constitute (i) a violation of any judgment, order, or decree binding on such party; (ii) a breach under any contract by which such party is bound; (iii) an event that would, with notice or lapse of time, or both, constitute such a breach or (iv) require any consent under any agreement between Customer and any other party. Customer will defend, indemnify and hold harmless Seller from and against any and all losses arising out of or resulting from its breach of any representation or warranty in this section.

17. Customer-Specific Inventory. In the event Customer or Seller ceases to do business with the other, regardless of the reason, Customer will purchase any and all Customer-Specific Inventory that is in transit to Customer or held in inventory by Seller for Customer, in amounts not to exceed sixty (60) days of inventory based on Customer's average daily purchases of the applicable Products. "**Customer-Specific Inventory**" means certain Products identified by Seller to be "custom products" or "special order items" with no ready market other than Customer, regardless of whether any of the Products could be classified for any other reasons or circumstances as standard usage products with a readily available market. In the event Customer fails to timely purchase such Customer-Specific Inventory as described above, Seller may, but is not required to, dispose of such Customer-Specific Inventory in a manner of its choosing and invoice Customer for any and all fees or costs incurred for such disposal.

18. Confidential Information. The parties and their employees or representatives (collectively, the "**Receiving Party**") agree that the existence of these Terms of Sales and all proprietary and confidential information ("**Confidential Information**") disclosed by the other ("**Disclosing Party**") will be maintained in confidence and not disclosed to any third party except as may be required by law, or with the Disclosing Party's express written consent. Pricing and terms of these Terms of Sale are Confidential Information of Seller. Confidential Information does not include information that (i) is now in the public domain or subsequently enters the public domain through no fault of the Receiving Party; (ii) the Receiving Party can establish is presently known or becomes known to the Receiving Party from its own independent sources; (iii) is received from any third party not under any obligation to keep such information confidential; or (iv) the Receiving Party can establish was not Confidential Information disclosed by the other party under these Terms of Sale. Violation of this provision may give rise to equitable and legal liability including, but not limited to, injunctive relief.

19. Data Rights. Seller may use, repurpose, copy, modify, distribute, display and/or publish Customer data for Seller's own use and for commercial purposes. Customer acknowledges that Seller may provide information and reports to group purchasing organizations, Suppliers, and other third parties relating to Customer's purchases from Seller. Customer hereby waives any rights of confidentiality with respect to such information to the extent necessary to allow Seller to provide such information to group purchasing organizations, Suppliers, and other third parties.

20. Intellectual Property. Customer acknowledges that Seller is the exclusive owner of its trademarks, logos, trade dress, designs, and copyrights ("**Intellectual Property**"). Customer cannot claim any ownership of Seller Intellectual Property and cannot distribute Seller Intellectual Property to other parties without the express written permission of Seller.

21. Publicity and Use of Name. Customer will not make any public announcement or press release regarding Seller or any activities performed by Seller without the prior written consent of Seller.

22. Compliance

22.1 General. Customer represents and warrants that it will fully comply with all Federal, state and local laws and regulations relating to its obligations under these Terms of Sale or otherwise applicable to the purchase, handling, sale, distribution or dispensing of and the reimbursement for the Products and represents and warrants that: (i) pharmaceutical Products are being purchased for dispensing or administration to patients pursuant to a legitimate prescription; and (ii) any subsequent resale will be in compliance with applicable law and to a licensed healthcare provider for its dispensing or administration to patients pursuant to a legitimate prescription. Customer will defend, indemnify and hold Seller harmless from any and all liability arising out of or due to non-adherence with such legal or regulatory requirements or the foregoing representation and warranty.

22.2 FRAUD AND ABUSE LAWS. CUSTOMER MAY RECEIVE DISCOUNTS OR OTHER REDUCTIONS IN PRICE IN CONNECTION WITH ITS PURCHASES OF PRODUCTS UNDER THESE TERMS OF SALE, AND SUCH PURCHASES MAY ALSO QUALIFY CUSTOMER FOR DISCOUNTS OR OTHER REDUCTIONS IN PRICE ON CERTAIN PURCHASES MADE PURSUANT TO A SUPPLY AGREEMENT BETWEEN CUSTOMER AND MCKESSON CORPORATION OR ITS SUBSIDIARY SUBJECT TO TERMS AND CONDITIONS THEREOF. CUSTOMER WILL BE RESPONSIBLE FOR REPORTING ALL PRICES, DISCOUNTS, AND REBATES PURSUANT TO THESE TERMS OF SALE AND PURSUANT TO ANY SUPPLY AGREEMENT BETWEEN CUSTOMER AND MCKESSON CORPORATION, TO REIMBURSING AGENCIES TO THE EXTENT REQUIRED BY LAW OR REGULATION, INCLUDING MEDICARE AND MEDICAID, AND OTHER ENTITIES, MAINTAINING RECORDS THEREOF, AND PROVIDING INFORMATION TO REIMBURSING AGENCIES, IN ACCORDANCE WITH ALL APPLICABLE LAWS. ANY PRICE REDUCTION OR DISCOUNT PROGRAM DESCRIBED IN THESE TERMS OF SALE OR ANY SUPPLY AGREEMENT BETWEEN CUSTOMER AND MCKESSON CORPORATION IS INTENDED TO BE A DISCOUNT WITHIN THE MEANING OF APPLICABLE FEDERAL AND STATE ANTI-KICKBACK LAWS, INCLUDING, 42 U.S.C. §1320A-7B(B) AND THE DISCOUNT SAFE HARBOR PROMULGATED THEREUNDER AND CURRENTLY FOUND AT 42 C.F.R. §101.952(H). CUSTOMER UNDERSTANDS THAT THESE TERMS OF SALE AND ANY SUPPLY AGREEMENT BETWEEN CUSTOMER AND MCKESSON CORPORATION MUST NOT REFLECT THE NET COST OF A PRODUCT DUE TO A F.B.E. OR OTHER DISCOUNT PROGRAM.

CUSTOMER REPRESENTS AND WARRANTS THAT IT WILL SATISFY ANY AND ALL REQUIREMENTS IMPOSED ON BUYERS, INCLUDING WHEN REQUIRED BY LAW, THE REQUIREMENT TO ACCURATELY REPORT, OR MAKE AVAILABLE UPON REQUEST BY A FEDERAL OR STATE HEALTH CARE PROGRAM, THE NET COST ACTUALLY PAID BY CUSTOMER FOR THE PRODUCTS AND SERVICES COVERED BY THESE TERMS OF SALE AND ANY SUPPLY AGREEMENT BETWEEN CUSTOMER AND MCKESSON CORPORATION. FOR PURPOSES OF COST REPORTING REQUIREMENTS UNDER A FEDERAL OR STATE PROGRAM WHICH PROVIDES COST BASED REIMBURSEMENT, CUSTOMER UNDERSTANDS THAT ANY SUCH DISCOUNTS, INCLUDING REBATES, SHOULD BE PROPERLY ALLOCATED ON A UNIT BASIS SO AS TO REPORT A NET SALE PRICE THAT ACCURATELY REFLECTS THE TOTAL AMOUNT OF THE DISCOUNT RECEIVED. IN THE EVENT EITHER PARTY DETERMINES THAT THESE TERMS OF SALE MAY NOT COMPLY WITH SUCH STATUTES, THE PARTIES AGREE TO WORK TOGETHER TO ESTABLISH A DISCOUNT OR REBATE STRUCTURE THAT MEETS THE REQUIREMENTS OF SUCH STATUTES.

22.3 Controlled Substances and Other Regulations. If performance of these Terms of Sale would cause Seller to be noncompliant with or in jeopardy of being noncompliant with any federal, state or local law, rule, regulation or ordinance or any governmental requirement, guideline or pronouncement involving either controlled pharmaceutical drugs ("**Controlled Substances**") or any other regulated products or activities, including but not limited to the Drug Enforcement Administration's regulatory requirements for verifying its customers and reporting suspicious or excessive orders, Seller may, in its sole and absolute discretion and, notwithstanding anything in these Terms of Sale to the contrary, without any penalty or liability, do any of the following: (a) limit or deny any order for Controlled Substances or other regulated products as warranted by any established diversion monitoring program of Seller and (b) immediately cease the sale of Product, in whole or in part, without liability if: (i) continued performance by Seller would violate any federal, state or local law, rule or regulation, or put Seller in jeopardy of violating any federal, state or local law, rule or regulation regarding either Controlled Substances or any other regulated products or activities; or (ii) Seller receives a complaint, notice, warning letter or other communication from a governmental agency alleging noncompliance with any laws, rules or regulations in relation to Seller's distribution of any Products (including without limitation Controlled Substances) under these Terms of Sale or to Seller's actions or omissions with respect to either Controlled Substances or any other regulated products or activities.

22.4 Own Use. Unless agreed to otherwise by the parties, all purchases under these Terms of Sale by Customer will be for Customer's "own use" as that term is defined in judicial or legislative interpretation, and Customer will comply with applicable manufacturers' pricing criteria and policies. Customer shall not intentionally or knowingly participate in any Diversion of Products. "**Diversion**" shall mean: (i) any sale of Products purchased hereunder outside the United States by Customer; (ii) any sale or transfer of Products into the market by Customer that are expired or have been withdrawn from the market; (iii) any sale or transfer of Products by Customer to subsidiaries or affiliates of Customer for resale; or (iv) any sale or transfer of Products by Customer to any unauthorized third party for any reason. Customer acknowledges that purchases of Products from Seller may be subject to pricing, distribution, provenance, identification, return and chargeback policies from the manufacturers of such Products and that Customer is required to comply with all such manufacturer's policies.

22.5 Excluded Provider. Neither Customer nor any of its affiliates, employees or contractors: (a) have been convicted of a criminal offense related to healthcare; (b) are listed on the Office of Inspector General's List of Excluded Individuals/Entities, or are otherwise currently excluded, suspended or debarred from participating in any federal healthcare program; (c) are under investigation (civil or criminal) by any federal or state enforcement, regulatory, administrative or licensing agency; or (d) are currently listed on the General Services Administration List of Parties Excluded from the Federal Procurement and Non-Procurement Programs.

23. Governing Law. These Terms of Sale will be governed by and construed in accordance with the laws of the Commonwealth of Virginia. Notwithstanding the foregoing, if any terms that are unique to federal government contracting are subject to interpretation, these terms shall be construed and interpreted according to the federal law of government contracts as enunciated and applied by federal statutes, regulations, federal judicial bodies, boards of contract appeals, and other judicial and quasi-judicial agencies of the government.

24. Time of Action Accrued. Any action of any kind arising out of or in any way connected with these Terms of Sale, other than collection of outstanding payment obligations, must be commenced within one (1) year upon which the cause of action accrued.

25. Relationship of the Parties. The parties hereto are independent contractors. Nothing in these Terms of Sale shall be deemed to create an agency, employment, partnership, fiduciary or joint venture between the parties. No party hereto (nor any agent or employee of that party) shall make any representations or warranties or incur any liability on behalf of the other.

26. Assignment. Customer shall not assign or transfer any interest under any order accepted by Seller or delegate any obligation hereunder without the prior written consent of Seller.

27. Joint and Several Liability. All obligations of Customer and any Facility that is accepted by Seller and purchased under a Customer account, regardless of its affiliation with Customer, will be joint and several. To the fullest extent permitted by law, Customer waives any and all suretyship defenses, which Customer might otherwise have with regard to obligations to pay for Products purchased by any Customer facility. Without limiting the foregoing, such waiver includes a waiver of the defense that the original obligations were altered in any respect or the remedies or rights of Seller with respect to the original obligations were in any way impaired or suspended.

28. WAIVER OF JURY TRIAL. THE PARTIES HERETO WAIVE ALL RIGHTS TO A JURY TRIAL IN ANY LITIGATION ARISING FROM OR RELATED IN ANY WAY TO THESE TERMS OF SALE, OR THE TRANSACTION CONTEMPLATED HEREBY.

29. E-Commerce and Online Sales. In the event Customer engages in e-commerce or online sales on its website ("**Site**") in order to enable end-user consumers ("**End-User Consumer**") to place orders for the Products on Customer's Site, the following provisions also apply:

29.1 Identification of All Online Stores. Customer must disclose all Customer-owned or Customer-operated business entities selling Products including, but not limited to: online store(s) with URLs, store alias(es) (e.g., brick and mortar), legal operating entity, and marketplace store name(s) with ID. If Customer creates a new business entity through which it intends to conduct sales, Customer must immediately disclose such business entity to Seller. Customers must create a unique McKesson account(s) for each class of trade entity (e.g., brick and mortar, marketplace, online stores).

29.2 Prohibition Against Selling on Marketplaces. Customer agrees to exclusively receive and process orders via publicly accessible e-commerce platforms which are owned or operated by Customer and which have been previously disclosed to Seller. Any violation of this policy including, but not limited to, selling on or through third-party marketplace websites (e.g., Amazon.com, eBay, Alibaba, etc.), drop-ship accounts (e.g., Buy.com, Newegg.com, Overstock.com, Groupon.com, etc.), classified sites (e.g., Craigslist.com, Facebook Marketplace, etc.), or direct messages on social media or online forums is strictly prohibited unless expressly approved in writing by Seller.

29.3 License Grant. Seller hereby grants to Customer a limited, non-exclusive, non-transferable, royalty-free license to use certain photographs and product descriptions of Products ("**Content**") solely for the purpose of developing sales and marketing materials for the Products represented in the Content in order to offer such Products to Customer's End-User Consumers through printed materials on its Site. Customer's use of the Content shall inure to the sole benefit of Seller and Supplier represented in the Content. Nothing in these Terms of Sale shall be deemed to grant to Customer any ownership interests in the Content. If Customer acquires any rights in any Content by operation of law or otherwise, Customer will immediately, at no expense to Seller, assign such rights to Seller or to a third party designated by Seller along with any associated goodwill, applications and/or registrations.