

## Terms and Conditions of Sale

### General

1. These Terms and Conditions of Sale ("the Conditions") shall apply to and form part of the contract ("the Contract") between Qualasept Ltd (trading as 'Bath ASU', "the Company") and the buyer ("the Buyer") for the supply of goods and services ("the Deliverables") specified on any invoice from the Company dated on or after the date of the Contract further to the Buyer's order ("the Order"). These Conditions apply to each Contract to the exclusion of any other terms that the Buyer may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. No representation, assurance or other statement made by any of the Company's representatives shall be construed as enlarging, varying or overriding any of the Conditions and neither the Buyer nor the Company shall be bound by any variation, waiver of or addition to the Conditions unless expressly agreed in writing. No waiver by the Company of any default shall be deemed to be a waiver of any default which may occur thereafter.
2. An account for the Buyer may be opened by the Company at its sole discretion following receipt of a completed quotation acceptance form and a completed new account application form (each available from the Company on request) and may be suspended or closed at any time with or without prior notice.
3. All notices for Company shall be sent by email to [customerservices@bathasu.com](mailto:customerservices@bathasu.com).

### Contract and Price

4. All Orders for the Deliverables shall be deemed to be an offer by the Buyer to purchase subject to these Conditions at the price stated in the quotation provided by the Company ("the Contract Price"), which the Company shall be free to accept or decline at its absolute discretion. The Buyer's Order shall be deemed accepted by the Company, and the Contract shall come into force (consisting of these Conditions, the Order, and all Company invoices relating to the Order), on the written confirmation of acceptance of the Order by the Company, or the delivery of an invoice to the Buyer (whichever is the earlier).
5. Unless otherwise agreed in writing, the list price of the Deliverables is exclusive of carriage charges and VAT. The Contract Price shall be the total of the list price of the Deliverables plus carriage charges and where applicable, VAT.

### Payment

6. The Company shall be entitled to invoice the Buyer on or at any time after acceptance by the Company of an Order. The Buyer shall pay invoices in full, within 30 days of date

of invoice, in accordance with the payment details set out in the relevant invoice.

7. The time of payment shall be of the essence of the Contract and if the Buyer has not made payment by the due date, the Company may refuse to deliver the Deliverables and terminate the Contract without notice and without prejudice to any right of the Company existing at the time of such termination, or to any other remedies provided by law.
8. Without prejudice to Condition 6, the Company reserves the right to charge interest at 8% per annum above the base rate of the Bank of England on all overdue payments and all other expenses incurred by the Company on account of the failure of the Buyer to pay on the due date. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment.
9. If the Buyer disputes any part of an invoice, it will notify the Company within seven (7) days of the date of delivery, providing reasonable details of the dispute, and cooperate reasonably and in good faith to resolve the dispute. The Company reserves the right to issue a new invoice for the undisputed part of that disputed invoice, and any new invoice. The new invoice will be payable within the payment period applicable to the original invoice.

## Delivery

10. The Company's liability for delivery shall be limited to making the Deliverables available in the packing, if any, necessary to enable the Buyer to take delivery of the Deliverables at the place specified in the Order ("the Delivery Location"). The Buyer shall be responsible for unloading the Deliverables. If the Delivery Location is not specified in the Order, the Company's liability for delivery shall be limited to making the Deliverables available for collection by the Buyer at any warehouse of the Company in the United Kingdom (which shall be deemed the Delivery Location) and giving written notice of such availability for collection to the Buyer.
11. The Company shall ensure that each delivery of the Deliverables is accompanied by a delivery note which shows the date of the Order, all relevant Buyer and Company reference numbers, and the Deliverables contained in the delivery.
12. The Company will deliver the Deliverables to the Delivery Location at any time after the Company notifies the Buyer that the Deliverables are ready. Delivery will take place between 8am and 6pm on a Business Day unless otherwise agreed. Unless agreed otherwise, any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Company shall not be liable for any direct, indirect or consequential loss whatsoever suffered or caused through late delivery or non-delivery. The time of delivery shall not be of the essence of the Contract and the Company shall be at liberty to deliver the Deliverables by instalments.

13. Delivery of the Deliverables shall be completed on the Deliverables' arrival at the Delivery Location.
14. Except where the Delivery Location is a Company warehouse, the Buyer is solely responsible for ensuring that the Delivery Location premises comply with all relevant regulatory requirements and applicable laws. The Buyer is solely responsible for ensuring that an appropriately authorised person supervises the receipt and acceptance of the Deliverables on behalf of the Buyer.
15. If the Buyer fails to accept delivery of the Deliverables when attempted by the Company, it shall be required to pay a charge for any re- delivery. If the Buyer has not accepted delivery of the Deliverables within 7 days after the Company first attempted delivery, the Company may resell or otherwise dispose of any of the Deliverables.
16. The Company shall have no liability for any failure to deliver any Deliverables to the extent that such failure is caused by the Buyer's failure to comply with any of these Conditions, or the Buyer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Deliverables.

#### **Deliverables and Returns**

17. The Buyer must promptly check Deliverables for quantity and visible defects following delivery. The Company will only be liable for any claim that Deliverables are defective or do not otherwise comply with the Contract (other than claims in respect of latent defects not apparent on reasonable inspection by a suitably qualified person ("Latent Defect Claims")) where written notice is given to the Company by the Buyer upon identification or within two (2) working days following identification, and in no circumstances beyond the product expiry date. Any such notification shall be accompanied by the return of the Product which is alleged to be deficient or by clear photographic evidence which enables the defect to be identified.
18. If the Buyer fails to give notice under clause 17, the Deliverables delivered will be deemed to be in all respects in accordance with the Contract and the Buyer shall be bound to accept and pay for the Deliverables, and all claims in respect of obvious defects or other non-compliance with the Contract (other than Latent Defect Claims) will be excluded.
19. In the event that the Buyer has a valid claim for any defect, loss, damage or non-compliance with the Contract:
  - (i) the Company must be given a reasonable opportunity to examine the affected Deliverables;
  - (ii) the Buyer (if asked to do so by the Company) must return the affected Deliverables to the Company's place of business at the Company's cost;

- (iii) the Company's only obligations in respect of that defect, loss, damage or non-compliance shall be to:
- a) make good any shortage or non-delivery; or
  - b) at its option replace the affected Deliverables or refund the price of the affected Deliverables to the Buyer and any transport costs incurred by the Buyer in returning the affected Deliverables to the Company. However, Deliverables will only be accepted by the Company for return for the following reasons:
    - A. over delivery;
    - B. not ordered;
    - C. received out of date/short dated;
    - D. a different size/ description from that quoted; or
    - E. product recall.

### Limitation of Liability

20. The Company's total liability arising under or in connection with the Contract, whether in tort (including negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise, shall be limited to the Contract Price. Nothing in these Conditions shall limit or exclude the liability of the Company for death or personal injury resulting from negligence or for fraud or fraudulent misrepresentation.

### Force Majeure

21. The Company (or any person acting on its behalf) shall not be liable for any failure to perform its obligations under the Contract which is due to an event beyond its control which by its nature could not have been foreseen by the Company (or such person acting on its behalf) or, if it could have been foreseen, was unavoidable and includes, without limitation, acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism or failure of energy sources. No delay in delivery as a result of any such event shall entitle the Buyer to rescind the Contract. The Company shall be entitled by notice in writing after such event shall have come to its knowledge, to cancel the Contract or any part thereof then unfulfilled and thereupon the Company shall be released from all further liability under the Contract or the part thereof which shall have been cancelled.

### Title and risk

22. Title to the Deliverables shall pass to the Buyer on receipt of payment in full. Risk in respect of the Deliverables shall pass to the Buyer on delivery of the Deliverables to the

Buyer in accordance with clauses 9-15, above.

#### **Patents, trademarks etc.**

23. The Company shall not be responsible for any infringement or unauthorised use of any patent, trade mark, copyright or other right belonging to a third party and nothing herein contained shall be construed to be a transfer or assignment of any such rights contained in the Deliverables and all such rights are expressly reserved to the Company or such other the true and lawful owner thereof.

#### **Warranty**

24. The Buyer warrants to the Company that it is authorised to purchase unlicensed medicinal products ("Specials") from the Company and that the Buyer's employee, officer, agent or any other representative placing an order for such Specials is either:

- (i) a doctor or dentist requiring the Specials for patients under his or her direct control and responsibility, or
- (ii) a pharmacist in a hospital, healthcare centre or registered pharmacy, or
- (iii) a licensed wholesaler permitted to supply any of the above.

The Company supplies the Specials on the strict understanding that they are not for resale (except in accordance with clause 16 (iii) and shall not be liable in respect of any Specials resold by the Buyer. Buyer further warrants that it is not buying the Specials on behalf of a third party and, other than in relation to 25 (iii), confirms that any resale represents a fundamental breach of these terms and conditions. The Buyer shall indemnify the Company against any liability, claims, loss, damages or costs it incurs as result of the Buyer breaching this condition 25.

#### **Set off**

25. No claims arising out of or in respect of the Contract or any other contract between the parties shall excuse the payment of the Contract Price when due and no right of set off shall exist in favour of the Buyer.

#### **Delivery by instalments**

26. In the event that the Contract calls for delivery by instalments each instalment shall be deemed to be a separate Contract and default by either party with respect to any instalment shall not entitle the other party to cancel the relevant Contract with regard to any instalment deliverable save that if the Buyer shall default in payment of the Contract Price or any part thereof on the due date the Company may refuse to make further deliveries and terminate the Contract without notice and without prejudice to any right of the Company under the Contract existing at the time of such termination.

## Data Protection and data processing

27. For the purpose of the Contract "Data Protection Legislation" means all applicable data protection and privacy legislation, regulations and guidance including, without limitation the European General Data Protection Regulation (Regulation (EU) 2016/679) as enacted into the laws of the United Kingdom by the Data Protection Act 2018 and any amendment or re- enactment thereof and Personal Data, Data Subject; Controller; Processor; and other words and phrases used in this clause shall have the same meanings as in the Data Protection Legislation unless the context otherwise requires.
28. The Company and the Buyer each agree that they will process the Personal Data as independent Controllers, in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments.
29. Subject to clause 30, any Personal Data provided to the Company by the Buyer will be processed at all times in accordance with the Company's privacy policy (available at [www.bathasu.com](http://www.bathasu.com)).
30. If the parties agree that the Company will process Personal Data as a Processor on behalf of the Buyer, the Company and Buyer will agree a separate data processing agreement prior to the commencement of any such processing.

## Cancellation of Order

31. An Order once placed and accepted under a Contract cannot be cancelled except with the Company's written consent and on the terms which will indemnify the Company against any loss incurred by reason of the cancellation. Where the Deliverables are returned by the Buyer without the Company's consent other than under the provisions of these Conditions, they will not be accepted for credit.

## Cancellation of Contract

32. If the Buyer fails to comply with any of these Conditions or those of any other contract between the Company and the Buyer, the Company may refuse to make any further deliveries (if any) under the Contract, and may without prejudice to any other rights to which it shall then be entitled, cancel the Contract without notice and in the event of such cancellation any deposit paid by the Buyer to the Company shall thereupon be forfeited.

## Jurisdiction

33. This Contract shall be read and construed in all respects in accordance with English law and the courts of England and Wales shall have exclusive jurisdiction in respect of any matter that arises out of or in connection with it.

### **Rights of Third Parties**

34. None of these Conditions shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to the Contract.

### **Entire Agreement**

35. These Conditions and any documents annexed as appendices to them or otherwise referred to herein contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

Our Privacy Policy is available to read at [www.bathasu.com](http://www.bathasu.com)