

Viamed Ltd Terms & Conditions

Viamed is a business to business reseller. By placing an order with Viamed, you are accepting our terms and conditions. Your existing statutory rights are not affected by these conditions.

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1. Definitions
 - 1.1 The "Buyer" means the account applicant or person who accepts a price from the Seller or whose order for the Goods is accepted by the Seller.
 - 1.2 The "Seller" means Viamed Ltd,
 - 1.3 "Conditions" means the conditions of sale set out in this document and any special and/or additional conditions agreed in writing by the Seller.
 - 1.4 "Good" or "Goods" means the goods (including any installment of goods or any parts for them) ,which the Seller is to supply in accordance with these Conditions.
 - 1.5 "Viamed Products" means products Manufactured or distributed in the Seller's sales literature or on its website as the case may be.
 - 1.6 "Writing" includes letter, facsimile transmission, email and other comparable means of communication.
 - 1.7 "including" and "in particular" shall be construed as not limiting any general words or expressions in conjunction with which either of those expressions is used.

2. Conditions

2.1 These conditions shall apply to all contracts for sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any which the Buyer may purport to apply under any purchase order, confirmation of order or any such similar document.

2.3 No variation or addition to these Conditions shall be effective unless agreed in Writing by the Seller.

2.4 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing and in entering into the contract the Buyer acknowledges that it does not rely on any such representations, which are not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller and without any prior notification. The views and opinions expressed in any sales literature or on the Seller's website are the views of the contributors and should not be taken necessarily as fact or as the opinion of Viamed.

2.6 No contract for the sale of Goods shall arise until the Seller dispatches an e-mail to the Buyer confirming the order is being processed.

2.7 Acceptance of delivery of Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.

2.8 Not all products offered for sale on this site can be sold or supplied to all prospective purchasers. Some transactions are precluded for example due to National licensing regulations, UN embargoes, NATO embargoes, National embargoes, and Exclusive Regional distribution arrangements. This list of restrictive products and destinations is not fixed and is added to and subtracted from by forces normally outside the control of Viamed.

2.9 Nothing in these Conditions shall affect the statutory rights of any consumer

3. Prices

3.1 The price shall be that on the Seller's current list price or as otherwise agreed in writing by the Seller and the Buyer should confirm prices (including any promotional prices and special offers) at the time of ordering. All special offers are strictly subject to availability.

3.2 The Seller reserves the right to revise prices prior to dispatch of Goods to reflect any indirect or direct increase in costs to the Seller, but if the price has been paid in full prior to dispatch no price revision may take place without the prior written agreement of the Buyer.

3.3 All prices are exclusive of VAT and charges for packing, postage and carriage (plus VAT) shall be paid in addition. Except where otherwise specifically stated.

3.4 Website pricing may differ to sales literature pricing.

4. Payment

4.1 Credit accounts are available for customers against approved references.

4.2 In the case of sales to Buyers who do not qualify for credit accounts, payment must be made in full before dispatch of any Goods.

4.3 Payment may be made by cash, cheque, credit or debit card.

4.4 In the case of sales made to customers with credit accounts, payment is due in full on the terms of credit agreed which shall not be more than 30 days from the date of the invoice unless otherwise agreed in writing by the Seller notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer.

4.5 Time for payment shall be of the essence and any failure to pay shall entitle the Seller at his option to treat the contract as repudiated by the Buyer, to delay delivery until paid or appropriate any payment made by the Buyer to such of the Goods as the Seller may think fit notwithstanding any purported appropriation by the Buyer (without prejudice to any other remedy that the Seller may have). Receipts for payment shall be issued only on request.

5. Interest on Overdue Invoices

5.1 Interest on overdue invoices shall accrue on any unpaid amounts from the date when payment becomes due at 2 per cent per annum above Barclays Bank plc base rate from time to time until the date of payment (a part of a month being treated as a full month for the purpose of calculating interest), to accrue both before and after any judgment.

5.2 All invoices shall be paid in full, free from any deduction for any set-off, counterclaim, Bank Charges or otherwise.

6. Delivery/Shipping Goods

6.1 Whilst every reasonable effort shall be made to keep to any estimated delivery date, time of delivery shall not be of the essence and the Seller shall not be liable for any losses, costs, damages or expenses incurred by the Buyer or any other person or Company arising directly or indirectly out of any failure to meet any estimated delivery date. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.2 Notification of delivery may be made by telephone call/message, email, fax or by post on the due date.

6.3 A carrier's first attempt to deliver shall be considered as the delivery date and unless otherwise agreed in writing by the Seller all deliveries can take place up until 6 pm.

6.4 Unless otherwise agreed the Seller may deliver by installments and in such case each installment shall be treated as a separate contract and any

delay, default or non-delivery in respect of any installment by the Seller shall not entitle the Buyer to cancel the remainder of the contract.

6.5 Failure by the Buyer to pay for any installments or delivery when due shall entitle the Seller to withhold any further deliveries and the Buyer shall be liable for any costs incurred by the Seller relating to such Goods.

6.6 Delivery of the Goods shall be made to the Buyer's address and the Buyer shall make arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.

6.7 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.7.1 Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

6.7.2 Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the contract or charge the Buyer for any shortfall below the price of the contract.

6.8 The method of dispatch for all sales shall be at the Seller's discretion, unless buyer specifies. In most cases 'UPS Standard' shipping is used, with deliveries normally within 2 days.

6.9 The Seller's delivery charges and the timing of all deliveries shall be as published from time to time. Any promotional offers in respect of delivery charges shall only apply to UK mainland and Northern Ireland, unless otherwise specified.

6.10 A delivery insurance charge, as published from time to time, shall be added to orders at the Seller's discretion and is non-refundable.

6.11 The Seller recognises the use of Incoterms 2000 and operates under Ex Works where the Seller delivers when he places the Goods at the disposal of the Buyer at the Seller's premises or another named place (e.g. warehouse, factory etc) not cleared for export and not loaded on any collecting vehicle.

7. Ownership and Risk

7.1 The risk in Goods shall pass to the Buyer upon delivery of the Goods or upon the Goods being appropriated to the Buyer but kept at the Seller's premises at the Buyer's request.

7.2 The Seller remains the owner of the Goods affected by the contract until the Seller has been paid in full in cash or cleared funds for such Goods and all other Goods agreed to be sold by the Seller to the Buyer for which payment is due.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property.

7.4 If any payment due under these Conditions is overdue in whole or in part, the Seller may without prejudice to any of its other rights recover and/or re-sell the Goods or any of them and may enter on the Buyer's premises by its servants or agents to recover the Goods and the Buyer shall be liable for all the Seller's costs of so doing.

7.5 The Buyer 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 the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) immediately become due and payable.

8. Warranties and Liabilities

8.1 Subject to the conditions set out below the Seller warrants that the Goods will at the time of delivery correspond to the description given by the Seller.

8.2 The above warranty is given by the Seller subject to the following conditions:

8.2.1 The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

8.2.2 The Seller shall not be under liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's written approval;

8.2.3 The Seller shall be under no liability under the above warranty (or any other warranty, conditions or guarantee) if the total price for the Goods has not been paid by the due date for payment;

8.2.4 Where the Goods are covered by manufacturer's warranties, details of which will be supplied to the Buyer on delivery of the Goods the Buyer shall only be entitled to the benefit of such warranties or guarantees as are given by the manufacturer to the Seller.

8.4 Subject as expressly provided in these conditions and except where the Buyer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977, section 12) all warranties, conditions, or other terms implied by statute, common law or otherwise are excluded to the fullest extent permitted by English law.

8.5 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be held responsible for any incompatibility issues or held liable to the Buyer by reason of any representation (unless fraudulent) or any implied warranty, condition, or other term or any duty at common law or under the express terms of the contract, for any indirect, special or consequential loss or damage, costs, expenses or other claims for

compensation whatsoever (whether caused by negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer including, without limitation, losses or damages of the types listed below:

8.5.1 Loss of profit; and/or

8.5.2 Loss of anticipated savings.

8.5.3 Loss of business and/or goods; and/or

8.5.4 Loss of revenue; and/or

8.5.5 Loss of contract; and/or

8.5.6 Loss of goodwill; and/or

8.5.7 Loss of use; and/or

8.5.8 Loss and/or corruption of data and/or other information; and/or

8.5.9 Downtime; and/or

8.5.10 Any damage relating to the procurement by you of any substitute hardware.

8.6 The entire liability of the Seller under or in connection with the contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

9. Returns/Cancellations/Replacements

9.1 Subject to clause 10, no contract shall be cancelled once accepted by the Seller nor shall any Goods which are delivered in accordance with the contract be returned without prior written approval of the Seller and on terms to be determined at the absolute discretion of the Seller.

9.2 Unless the Seller at its discretion decides otherwise, if the Seller agrees to accept the return of any such Goods then:

9.2.1 The Buyer will be liable for the cost of remedying any damage to the Goods returned where such damage has, in the opinion of the Seller, been caused by the Goods being inadequately packaged by the Buyer or through the Buyer's fault.

9.2.2 Where the Seller accepts the return of Goods, the Seller reserves the right to make a handling and restocking charge of 25% on Goods, which are returned if they were ordered in error or are no longer required by the Buyer.

9.3 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with the specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 3 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the terms of the contract.

9.4 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or conditions of the Goods or their failure to meet specification is notified to the Seller in accordance with these conditions, the Seller shall be entitled to replace the Goods (or any part thereof) free of charge or at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.

9.5 The Seller shall not give any credit for returned Goods where the Seller deems the Goods not to be faulty unless otherwise agreed in writing by the Seller.

9.6 Any Goods in respect of which any claim of defect or damage is made by the Buyer shall be preserved by the Buyer intact together with the original packaging at the Buyer's risk and shall at the request of the Seller be:

9.6.1 retained by the Buyer for a reasonable period to enable the Seller or its agent to inspect the Goods; or

9.6.2 returned to the Seller if the Goods are defective.

9.7 Goods not featured in the Seller's literature/web site are not subject to the normal returns policy and instructions for return should be confirmed with the Seller before returning the Goods.

10. Buyers dealing as Consumers

10.1 A Buyer dealing as a consumer shall have 3 days from the date of receipt of the Goods to cancel his order by giving notice by letter, fax or email to the Seller.

10.2 The effective date of cancellation is the date on which the notice is sent.

10.3 If the Buyer fails to return the Goods to the Seller within 7 days of the date of cancellation, the Seller shall be entitled to recover the Goods and deduct the cost of so doing from any monies owed to the Buyer.

10.4 The Seller shall refund any monies paid by the Buyer as soon as reasonably possible but in any event no later than 30 days from the date the notice of cancellation was given. The refund shall be made by the same method as payment.

10.5 The Buyer shall be liable for the cost of returning the Goods to the Seller.

10.6 This clause 10 shall not apply to:

10.6.1 Goods made to the Buyer's specifications; and

10.6.2 Sealed components in Gas Barrier Containers

11. Insolvency of Buyer

11.1 This clause applies if:

11.1.1 the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

11.1.2 an encumbrancer takes possession, or a receiver is appointed of any of the property or assets of the Buyer; or

11.1.3 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

11.2 If this clause applies then without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to the Buyer and if the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12. Customer Service queries

12.1 The Seller shall make every reasonable effort to resolve or acknowledge by post, telephone or email any queries, which the Buyer has made within 5 working days of receipt of any such query.

12.2 The Seller shall make every reasonable endeavour to respond to complaints within 5 working days and keep the Buyer reasonably notified of any progress thereafter.

13. Trademarks and Accreditation

13.1 The Seller and Buyer acknowledge the intellectual property rights of suppliers and manufacturers of the products/product literature appearing in the Seller's marketing literature and on the Seller's website.

13.2 All Goods are CE marked and have been manufactured and supplied under an ISO9001:2000 approval unless otherwise stated

14. Delay or Failure of Seller's Obligations

14.1 The Seller shall not be liable to the Buyer or be deemed to be in breach of the contract by reason of any delay in performing or any failure to perform any of the Seller's obligations in respect of the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:

14.1.1 Act of God, explosion, flood, tempest, fire or accident;

14.1.2 War, threat of war, sabotage, insurrection, civil disturbance or requisition;

14.1.3 Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

14.1.4 Import or export regulations or embargoes;

14.1.5 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);

14.1.6 Difficulty in obtaining materials, labour or machinery; and

14.1.7 Power failure or breakdown in machinery.

15. Group Company

15.1 The Seller will not disclose any information about its customers to third parties except where it is a necessary part of providing a service to the Buyer, e.g. arranging for Goods to be delivered. The Buyer may be contacted or sent information in respect of further Goods or Services available from the Seller. For further information refer to the full Privacy Policy

16. Third Party (Rights) Act 1999

16.1 The parties hereby exclude the application of the Contracts (rights of Third Parties) Act 1999 to each and every contract made under these Conditions.

17. No Waiver

17.1 The Seller's failure to insist upon strict performance of any provision of these Conditions shall not be deemed a waiver of its rights or remedies in respect of any present or future default of the Buyer in performance or compliance with any of these Conditions.

18. Notice

18.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice.

18.2 Notice shall be delivered personally or sent by first class prepaid recorded delivery or by registered post (airmail if overseas), courier or by facsimile transmission and shall be deemed to be given in the case of delivery personally on delivery and in the case of posting (in the absence of evidence of earlier receipt) 48 hours after posting (six days if sent by airmail) and in the case of facsimile transmission on completion of the transmission provided that the sender shall have received printed confirmation of transmission.

19. Enforceability

19.1 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provision of these Conditions and the remainder of the provision in question shall not be affected.

20. Dispute

20.1 In the event of a dispute between the Buyer and the Seller, should the Seller in writing require, the Buyer agrees to submit to the jurisdiction in accordance with the Arbitration Act 1996 for the time being in force as a legally binding alternative to court action.

21. Jurisdiction

21.1 The contract shall be governed by the laws of England and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts.

22. The Warranty

22.1 The Warranty covers normal use and excludes cover for damage resulting from:

22.1.1 Return shipment by you to Viamed (where applicable)

22.1.2 Your failure to provide a suitable installation or operating environment for the Product

22.1.3 Impact with other objects, dropping, falls, spilled liquids or immersion in liquids

22.1.4 Servicing of the Product not carried out or authorised by Viamed

22.1.5 Usage not in accordance with the user instructions provided with the Product

22.1.6 Failure to perform required preventive maintenance

22.1.7 Accident, abuse, misuse or neglect

22.1.8 Natural disasters such as flood, fire or lightning

22.1.9 Problems with electrical power such as power surges and

22.1.10 The use of parts, components, services or software not supplied by Viamed.

22.2 Warranty cover will not apply in the event the serial number or warranty seal has been removed, altered or defaced.

22.3 Except as expressly set out in these conditions, Viamed gives no other warranties, expressed or implied, including, without limitation, any warranties of satisfactory quality or fitness for a particular purpose, and Viamed expressly disclaims all warranties not stated herein.

23. Returns/Replacements/Repairs

23.1 During the Initial Warranty Period, if the Seller is satisfied that the Good is defective or damaged, the Seller will, at its sole discretion, repair or replace the Good s or the defective or damaged part(s) thereof or refund to the Buyer the amount paid for the Good s, less a reasonable sum for depreciation.

23.2 Warranty claims can be made by calling the Seller. When calling, the Buyer must have the following information available;

23.2.1 The Customer number, Invoice number or Delivery number;

23.2.2 The Good's serial number (if applicable); and

23.2.3 A description of the problem.

23.3 Valid proof of the date of your original purchase, including the serial number of the Goods, shall be required before any warranty service is provided. If the Seller determines that the Goods

are defective and that a repair or a replacement product is required, the Buyer will be given a Goods return number for the return of the defective product. This number must be clearly marked on a label on the outside of the original packaging, prior to return.

23.5 If the Seller supplies replacement Goods or part to the buyer before receiving the defective Goods or part from the Buyer, the Buyer is responsible for the return of the defective Goods or part and will be charged the full sales value of the replacement Goods or part if the defective

Goods or part is not received by the Seller within 30 days of delivery of the replacement.

23.6 The Seller uses new and reconditioned parts made by various manufacturers in performing warranty repairs and building replacement Goods. The Seller owns all parts removed from repaired Goods. If the Seller repairs or replaces the Goods (or any part of it) under Warranty, the term of the Warranty is not extended.

24. Remedies

24.1 In all cases, your sole remedies for a Product failure are limited to those contained in these conditions.

24. Viamed will not be responsible for any incidental or consequential damages which may occur as a result of your use of the Product, the Product's failure to perform under any circumstances, any replacement part provided under warranty or any other circumstances including without limitation losses of the types listed below:

24.2.1 Loss of profit; and/or

24.2.2 Loss of anticipated savings.

24.2.3 Loss of business and/or goods; and/or

24.2.4 Loss of revenue; and/or

24.2.5 Loss of contract; and/or

24.2.6 Loss of goodwill; and/or

24.2.7 Loss of use; and/or

24.2.8 Loss and/or corruption of data and/or other information; and/or

24.2.9 Downtime; and/or

24.2.10 Any damage relating to the procurement by you of any substitute hardware or software

25. Registration Obligations

25.1 In registering with the Seller's on-line shop the Buyer represents that they are of legal age to form a binding contract and are not a person barred from receiving services under the laws of England or other jurisdictions. The Buyer also agrees to:

25.1.1 provide true, accurate, current and complete information about themselves as prompted by the registration form (such information being the "Registration Data") and

25.1.2 maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If the Buyer provides any information that is untrue, inaccurate, not current or incomplete, or the Seller has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, the Seller has the right to suspend or terminate the Buyer's account and refuse any and all current or future use of the Service (or any portion thereof).

25.2 The registered user will receive a password upon completing the registration process. The user is responsible for maintaining the confidentiality of this password and account, and is fully responsible for all activities that occur under this password or account. The user also agrees to:

25.2.1 immediately notify the Seller of any unauthorised use of the user's password or account or any other breach of security, and

25.2.2 ensure that they exit from their account at the end of each session. The Seller cannot and will not be liable for any loss or damage arising from the user's failure to comply with this Section.

25.3 Information on this website is for personal, non commercial use. The user may not modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or sell any information, software, products or services found on, or obtained from this website without the Seller's permission. The user is welcome to print pages/product literature for their personal use but not for profit-making activities

25.4 The information provided on this website is for general purpose matters only. The Seller does not practice medicine, nor provide medical services or advice; therefore, the information on this site should not be considered medical advice. The user should always contact their healthcare professional for diagnosis and treatments.

25.5 The Seller tries to ensure that the website is running 24/7 and does not have any functional problems. However, the Seller cannot guarantee this and strives hard to solve any problems as soon as possible.

25.6 The Seller is not responsible for external links. Wherever possible, the Seller will inform the users of such links. Once the user use external links, they would leave this website and therefore the Seller is not responsible for the materials or any details that are provided on that website.

25.7 The design of this website and its content (excluding product manuals) are copyrighted by the Seller. No content provided on the website, including the images, can be used in any way without the Seller's consent

25.8 The Seller will not be responsible for any errors or omissions contained on this website and reserve the right to make changes without notice. The Seller will not be responsible for any viruses or other damaging programme or software taken away from this website.

25.9 The Seller does not represent or warrant that the information accessible via this website is accurate, complete or current. Price and availability of information is subject to change without notice.

25.10 Except as specifically stated on this website, to the fullest extent permitted at law, neither Viamed nor any of its directors, employees or other representatives will be liable for damages arising out of or in connection with the use of this website or the information, content, materials or products included on this site. This is a comprehensive limitation of liability that applies to all damages of any kind, (without limitation) compensatory, direct, indirect or consequential damages, loss of data, income or profit, loss of or damage to property and claims of third parties. For the avoidance of doubt Viamed does not limit its liability for death or personal injury to the extent only that it arises as a result of the negligence of Viamed, its directors, employees or other representatives.

Effective Date: 1 June 2008

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