

Med-Con Pty. Ltd. Standard Terms And Conditions Of Sale

1. **Terms Apply To All Contracts**

These terms and conditions apply to and form part of any contract arising from the Customer's acceptance of the Company's offer and any contract arising from repeat of further orders for the same or similar goods whether given orally or otherwise.
2. **Offers**

Unless otherwise agreed in writing, all prices are:

 - (a) Open for acceptance for a period of thirty (30) days only.
 - (b) F.O.B. Med-Con Pty. Ltd. Warehouse.
 - (c) Exclusive of any costs attributable to any special delivery required by the Customer and those costs are recoverable from the Customer.
 - (d) Based on current labour and material costs, and any variation to those costs or to specification are recoverable from the Customer.
 - (e) Calculated on the basis of all goods ordered being delivered in one shipment.
 - (f) Net of G.S.T.
 - (g) Prices are subject to change without notice
 - (h) Surcharges are applicable to all orders that do not exceed Med-Con's minimum purchase amount. This surcharge is subject to change without notice.
 - (i) Freight costs are recoverable from the customer for all orders that do not meet Med-Con's minimum quantities. These freight costs are subject to change without notice.
 - (j) Subject to negotiation Med-Con reserves the right to ask for a deposit with any Customer Purchase.
3. **Acceptance**

The placing of an order with the Company is a full acceptance of these Terms And Conditions and any terms and conditions sought to be introduced by the Customer's order will be disregarded and form no part of the contract.
4. **Delivery**
 - (a) The Company will use its best endeavours to deliver or arrange for delivery of the goods to the Customer at the agreed price and time of delivery but no liability will attach to the Company if the goods are not delivered within that period.
 - (b) The Company reserves the right to alter the agreed date by notice prior to the due date of the delivery given to the Customer where it is in the Company's view impractical to deliver or arrange for delivery of the goods to the Customer on the specified date.
 - (c) Any goods not taken within the period specified in paragraph (a) or on such other date as has been specified to the Customer goods are to be paid for in full within thirty (30) days from the end of the month in which the goods were invoiced unless otherwise agreed in writing and any delivery or other costs incurred by the Company in connection with such goods are recoverable from the Customer. Such goods remaining in the Company's stores under these circumstances will be at the Customer's risk and subject to a storage charge at the option of the Company.
 - (d) The Company reserves the right to supply by instalments. Each instalment is deemed to be sold under a separate contract and will be invoiced for payment upon the Company's usual terms as set out in clause 7. Failure of any one delivery shall not invalidate the contract as to the other deliveries.
5. **Liability - Suitability Of Goods**
 - (a) Subject to paragraph (c), no warranty is given by the Company or responsibility accepted by it that the goods sold comply with the requirements of any legislation relating to the making and/or labelling and/or packaging of goods. Compliance with the requirements of such legislation is the sole responsibility of the Customer and the Customer must indemnify the Company against all losses, claims and expenses of whatsoever nature arising from any action or proceeding of any kind resulting from non compliance.
 - (b) Subject to paragraph (c), no condition or warranty that work done or goods supplied are or is suitable in size, shape, capacity, quality or otherwise for the Customer's purpose is contained in, given by or to be implied in this contract.
 - (c) The Customer has the benefit of the conditions and warranties implied by statute which cannot be lawfully be excluded, restricted or modified.
 - (d) Subject to any statutory provision to the contrary, any liability of the Company to the Customer in relation to any breach of a condition or warranty referred to in paragraph (c) is limited to replacement of the goods or supply of the goods, or at the option of the Company, payment of an amount equal to the cost of replacing the goods or of acquiring equivalent goods (whichever is the lowest amount)
6. **Carriers**
 - (a) Title to and risk in respect of goods delivered to a carrier for carriage to the Customer passes to the Customer when;
 - (i) In the event that Med-Con use their own carrier - Upon signed receipt of Consignment Note at time of delivery.
 - (ii) In the event that the customer chooses their own carrier - Upon signed receipt of Consignment Note at time of Pick-up by their nominated carrier from Med-Con Pty. Ltd.
 - (b) The Company will use its best endeavours to notify the Customer within 24 hours of goods having been handed over or made available to a carrier but no liability will attach to the Company if notice is not given within that period, nor will failure to give notice within that period excuse the Customer from any of the obligations under this contract.
 - (c) If there is no agreement between the Company and the Customer as to who the carrier is to be, or if the Company is otherwise to select the carrier, the Company may select any carrier as in its absolute discretion it sees fit to engage such carrier on such terms as the Company in its absolute discretion sees fit.
7. **Terms**
 - (a) Subject to paragraph (b), goods will be paid for at the time of placing an order.
 - (b) Where :
 - (i) the Company has approved an application for commercial credit from the Customer or has otherwise agreed in writing (and that approval has not been revoked or withdrawn), and
 - (ii) The cost of goods ordered by the Customer, plus the cost of any goods previously ordered by the Customer for which payment is outstanding, does not exceed the credit limit approved for the Customer, goods will be paid for at or before the end of the month following the month of invoice.
 - (iii) Credit card payments of accounts will attract a 3% surcharge.
 - (c) The Company may charge on overdue balances outstanding at its current bank overdraft rate plus one and one-half per cent (1 1/2%) as a handling fee.
 - (d) If payment is not received by the Company on or before the due date, the Customer will be liable for all costs incurred in recovery, including all debt collection agency fees and solicitor's costs.
8. **Default of Customer**

If agreement for the purposes of clause 7 (a) is not granted or is revoked or withdrawn by the Company, or the Customer defaults in payment or commits an act of bankruptcy or, being an incorporated company, passes a resolution for winding up (except for the purposes of reconstruction) or a court makes an order to that effect, the Company reserves the right to cancel the order (so far as it remains unperformed) in all or in part, without liability on the part of the Company and all monies owing to the Company under the contract will be immediately payable.
9. **Claims / Returns**

Any claims must be made in writing within seven (7) days of receipt of the goods by the Customer, except claims as to non-delivery which must be made in writing within fourteen (14) days of dispatch of the goods, and any claims not made within that period shall be deemed to be waived. **All returns are subject to written Authorization from Med-Con Pty. Ltd. prior to return of goods. A 20% Re-Stocking Fee and Freight Costs may apply to returned goods.**
10. **Variation or Waivers**

These terms and condition shall govern any contract unless expressly waived or varied in writing by the Company, but so as not to release the Customer from any obligation herein.
11. **Force Majeure**

Every effort will be made to carry out every contract but the due performance of a contract is subject to variations or cancellation owing to an Act of God, internal disturbances, war, strikes, lockouts, fire, flood, riot, theft, force Majeure or any other causes beyond the Company's control or owing to inability to procure materials or articles except at increased prices due to any of the above, but the Customer will remain liable for payment for work done to the date of cancellation.
12. **Patents and Designs**
 - (a) In consideration of the Company accepting an order from the Customer, the Customer warrants and assures that no patent, copyright, trademark, design or any other right, or any legislation, is or will be infringed by reason of the Company accepting or carrying out the order and the Customer agrees to indemnify the Company against all losses, costs and expenses of whatsoever nature suffered or incurred by the Company in connection with any claim, action or proceeding by a third party.

- (b) The Customer acknowledges that all technical information, advice, know how, drawings, designs and samples ("the information") submitted to the Customer are the confidential and proprietary information of the Company.
 - (c) The Customer will keep the information secret and confidential and will not disclose it or any part thereof to any party without the express authority of the Company. This obligation of confidence does not apply to any part of the information which forms part of the public domain or enters the public domain other than by reason of default on the part of the Customer.
 - (d) The Customer will not reproduce any part of the information in any form without the express authority of the Company.
13. **Experimental or Non Stock Line Orders**
Preliminary work and/or work produced in an experimental way at a Customer's request will be considered an order and may be charged to the Customer.
All orders for goods not included in Med-Con's Price List must have a covering irrevocable purchase order from the customer. Med-Con also may ask for a deposit for part or all of the goods upon order acceptance.
14. **Sales Tax**
(a) Unless the Customer furnishes to the Company a Quotation of Certificate or an Exemption Certificate, the Company will charge to and collect from the Customer the amount of any sales tax payable in respect of the goods.
(b) The Customer warrants that any Quotation of Certificate or Exemption Certificate furnished to the Company is properly and lawfully furnished and that any information contained therein is true and correct in all respects and if, without knowledge or fault on the part of the Company, a Quotation of Certificate or Exemption Certificate is improperly or unlawfully furnished or information contained therein is not true and correct, the Customer agrees to indemnify the Company against all liabilities, penalties, costs and expenses of whatsoever nature suffered or incurred by the Company as a result thereof.
15. **Alleged Disputes**
In the event of any charges alleged to be in dispute the Customer will pay for all charges appearing on the statement of account pending an investigation of the charge or charges so disputed.
16. **Governing Law**
This contract is governed by and will be construed in accordance with the laws of the State in which is situated the office of the Company to which the order is addressed and the Customer and the Company hereby submit to the jurisdiction of the courts of the State and all courts competent to hear from those courts.