



TERMS OF SALE

Unless otherwise agreed in writing by Zoetis New Zealand Limited (“Zoetis”, “we”, “us”, “our”), our goods and services are sold on the following terms. These, together with any other terms agreed upon in writing between us and you or your organisation (“Customer”, “you”, “your”) apply to the exclusion of all other terms.

1. ORDERS

- 1.1 **Acceptance:** We may accept or decline in whole or in part, any order that you place with us. We may accept an order by supplying the products that are the subject of the order.
- 1.2 **Minimum quantity:** If you place an order for less than the minimum order quantity specified in our applicable price list, then we may either not accept the order, or deem your order to be an order for the minimum quantity, at our discretion.
- 1.3 **Pending orders:** If you order goods that are not then available, we will fill the order when the stock becomes available, unless otherwise agreed with you. In the event we have multiple orders that need to be filled, we reserve the right to decide (in our sole discretion) which orders will be filled first.
- 1.4 **Cut off time for orders:** Our customer service department must receive all orders before 2.00pm. If an order is received after 2.00pm, then it will be deemed to have been received the following business day.
- 1.5 **Restricted products:** For safety or regulatory reasons, from time to time we may only accept orders for certain products from accredited customers that meet the training or other accreditation requirements we impose. You indemnify us for all losses arising out of your sale of such restricted product(s) to a retailer that does not meet all applicable training or accreditation requirements.

2. RESALE AND EXPORT PROHIBITIONS

- 2.1 **No export:** The products we sell (“products”) are for sale and use only in New Zealand. You must not (directly or indirectly) export any such products. If you export or attempt to export products, or allow another person to export products, then (without limiting any of our other rights) we may refuse to supply any further products to you.
- 2.2 **Vet only products:** For animal health and safety, food safety, biosecurity and other reasons, we may limit the resale or re-supply of certain types of products to veterinarians only from time to time. If we impose such a limitation on any of our products, you must not, directly or indirectly, resell or otherwise re-supply those products to any person who is not a veterinarian.
- 2.3 **Maximum prices:** We may, by notice to you, set a maximum resale price on any of our products. If we do, you must not resell that product above that price.
- 2.4 **Your terms of sale:** You must: (a) make sure that your terms of sale include restrictions no less onerous than those contained in this clause 2; and (b) enforce those clauses and demonstrate that to us on request.
- 2.5 **Limitation of liability to purchasers:** Without limiting clause 2.4, for any products supplied by us to you for re-supply by you, which are not of a kind ordinarily acquired for personal, domestic or household use or consumption, you must include a clause in your terms of sale limiting

your liability to purchasers which is consistent with the limitation in clause 7 below.

3. DELIVERY

- 3.1 **Title and risk:** Title to the products will pass from us to you on dispatch of the products from our warehouse. Risk in the products will pass from us to you on delivery of the products to you in accordance with clause 3.2. For the avoidance of doubt this clause does not limit our rights under clause 10 and you will still be obligated to pay us in full if title passes before full payment has been received and if you on-sell the products before we receive payment for them, you will hold all proceeds of sale on trust for us.
 - 3.2 **Delivery:** We will deliver the goods to the address you nominate in your order form (or if no address is specified, to your nearest premises) using a carrier of our choice. We may deliver by instalments. If you do not accept delivery of the products, then delivery is deemed to take place when we were willing to deliver them. If we agree that you will collect the products from our warehouse, then delivery occurs when goods are collected by you or your carrier.
 - 3.3 **Delivery costs:** We will pay the costs of delivery if: (a) you are a wholesaler of our products, where your total order value exceeds \$5,000 plus GST; or (b) if you are not a wholesaler, where your total order value exceeds \$1,000 plus GST. In relation to all other orders, you must pay a delivery fee of \$75 + GST per delivery. If you request an urgent delivery, and we agree to assist you with that request, additional delivery fees will apply.
 - 3.4 **Delivery times:** Our standard delivery times are 3 business days. Standard delivery times for vaccines are overnight (Monday to Thursday excluding public holidays, with no deliveries on Friday or days immediately prior to public holidays or holiday weekends). We use reasonable efforts to deliver within standard delivery times, but such delivery times are estimates only.
 - 3.5 **Receipt:** You must tell us immediately if you do not receive any products within 7 days of the date of invoice or advice of dispatch, whichever is earlier.
 - 3.6 **Over or under-delivery:** Delivery of 10% more or less than the quantity of the goods you ordered is deemed to constitute performance of this contract, with the amount under or over supplied to be deducted or charged for on a pro rata basis.
- ### 4. USE AND STORAGE
- 4.1 **Storage:** You must store the products we supply in accordance with the requirements stated on each product label and package. You acknowledge that some products need to be kept refrigerated below a specified temperature and may not be effective if they are not stored at that temperature and otherwise in accordance with our instructions. We will not accept any liability if our products are ineffective or less effective due to any failure to store them appropriately.

- 4.2 **Legal requirements:** Our product range includes many types of veterinary medicines and you must receive, keep, use and sell our products in accordance with all applicable laws. We may require evidence acceptable to us of your entitlement to order and receive products from us (such as registered veterinary medicines or other controlled substances).
- 4.3 **Keeping records:** You must keep accurate records of where the products we supply you are kept and distributed. In the event that there is a product recall, you will provide us with these records and use all reasonable endeavours to assist us with that recall,
5. **PRICE**
- 5.1 **Price:** Unless otherwise agreed in writing, the price of the products is our standard list price at the date of dispatch. We may update our price list at any time.
- 5.2 **GST:** All prices exclude GST, unless expressly stated. If GST is payable on a supply made by us under these Terms, you must pay an additional amount equal to the GST payable on supply at the same time as you pay for our products. We will issue a tax invoice to you.
6. **PAYMENT/CREDIT**
- 6.1 **Payment:** Unless otherwise agreed in writing, payment is due by the 20th of the month following the date of invoice. Payment must be made in full without any deduction or withholding. If we do not receive full payment by the due date then, in addition to our other rights, we may: (a) charge you interest on those amounts on a daily basis at our then-current bank overdraft rate plus 5%; and/or (b) suspend, cancel and/or refuse to accept any orders made by you or your related entities.
- 6.2 **Credit checks:** You authorise us to make enquiries from time to time into your credit and financial history, including by obtaining reports from credit reporting agencies. We may carry out equivalent enquiries into your guarantors, where we require a guarantee pursuant to clause 6.3.
- 6.3 **Guarantees:** We may require personal guarantees from your directors and other persons in relation to your obligations under these terms.
- 6.4 **Credit can be cancelled:** We may terminate any credit account you hold with us at any time. If we terminate your credit account in connection with a breach by you or one of your related entities of these terms, then (without prejudice to our other remedies) all amounts payable by you to us will become immediately due for payment, and we may require security from you before we agree to accept any further orders.
- 6.5 **Collection costs:** If you breach these terms and we take action to recover amounts payable by you, then you must pay us all of our collection costs, including commissions and legal fees and expenses on a solicitor client basis.
7. **WARRANTIES, GUARANTEES, LIABILITY**
- 7.1 **Consumer Guarantees:** The Consumer Guarantees Act 1993 ("CGA") confers rights, guarantees and remedies on you if we (a) supply you with goods and services of a kind that are ordinarily acquired for personal, domestic, or household use or consumption; and (b) you do not acquire or hold yourself out as acquiring those goods or services for the purposes of resupplying them in trade, consuming them in the course of a process of production or manufacture, or (in the case of goods) repairing or treating in trade other goods or fixtures on land. Where the CGA applies, nothing in these terms is intended to limit our liability under that Act.
- 7.2 **Liability:** If the CGA does not apply, then subject to any other applicable laws that cannot be excluded: (a) we exclude all representations, guarantees, warranties and terms either express or implied, that are not expressly set out in these terms; (b) we are not liable, whether in contract, tort (including negligence) or otherwise, for any indirect or consequential loss or damage, or any loss of profit, income or opportunity (including in respect of animals used for breeding or showing). In addition, we are not liable to the extent that any loss or damage was caused or contributed to by your negligence or you, your employees, representatives, agents, or any third party.
- 7.3 **Force majeure, etc:** We will not be liable for any delay or failure to deliver resulting from scarcity of materials, failures by suppliers, strikes, acts of God, or any cause beyond our reasonable control.
- 7.4 **Indemnity:** You indemnify and will defend us in respect of all liabilities incurred or awarded against us in connection with any breach by you of your obligations, representations or warranties under these terms.
8. **RETURNS**
- 8.1 **Change of mind:** Subject to clause 8.2, all deliveries of products are made on a firm sale basis and cannot be returned to us for "change of mind", unless we agree otherwise in writing. This does not limit our obligations under applicable law, including the CGA (where it applies).
- 8.2 **Short dated product:** Where we supply full-priced products to you that are within 6 months of their expiry date ("short dated products"), we will accept returns of that product from you at any time before the expiry date, and provide you with replacement product or a refund (at our discretion), provided that you can satisfy us that: (a) the product has not been on-sold; (b) the product has been stored correctly at all times (including by providing us with a pedigree letter where we require it); and (c) the product was short dated at the time of delivery by us to you. You must comply with our returns policy (as amended by us from time to time) in relation to any such returns. This clause does not apply in relation to our Eweguard product range and other than in relation to our obligations under applicable law, we will not accept short dated product returns for Eweguard. Where we supply you with short dated products at a discounted price, those products are sold on a firm sale basis and we will not accept returns.
9. **ETHICAL BUSINESS PRACTICES**
- 9.1 **Do not bribe:** You must not bribe, directly or indirectly, any person in connection with our products or any amount payable in connection with these terms, and without limiting that obligation you must comply with our Anti-Bribery and Anti-Corruption Principles available at www.zoetis.co.nz.
- 9.2 **Verification:** You agree to permit us to take reasonable steps to ensure that rebates or other benefits paid or provided by us to you (directly or indirectly) are not used by you or your employees, representatives or agents for any unlawful or corrupt purpose, including by promptly permitting our auditors to access any relevant information and records of yours relating to such rebates or benefits.
- 9.3 **Termination:** If we learn that you or your employees, representatives or agents are or have been using any rebates or benefits paid or provided by us to you for an unlawful or corrupt purpose, we may by written notice with immediate effect: (a) terminate any agreement with you pursuant to which the rebates or benefits are paid or provided, in which case, you will forfeit any rebates or benefits that have been accrued but not yet provided as at the date of termination; (b) cancel any order from you or any of your related bodies corporate; or (c) terminate any credit account you have with us.
10. **SECURITY INTEREST**
- 10.1 **Security interest:** You grant us a security interest in the products (and proceeds of the products) we supply to you

- as security for all amounts owing under these terms, and for your performance of your obligations under these terms.
- 10.2 **Acknowledgement:** You acknowledge receipt of a copy of these terms and waive any right it may have to receive a copy of any financing statement, verification statement or financing change statement that is registered, issued or received in relation to any products supplied under these terms. You must immediately notify us in writing of any change of your (or your organisation's) name.
- 10.3 **Further assurances:** You must do all things reasonably requested by us for us to perfect our security interest in the products, including if applicable, to register a purchase money security interest on the Personal Property and Securities Register.
- 10.4 **Waiver:** To the extent that part 9 of the PPSA applies to any security interest created under these terms, you agree that sections 114(1)(a), 133 and 134 of the PPSA will not apply on the enforcement by us of our rights in respect of any such security interest. You also waive any rights you may have under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA on such enforcement.
- 10.5 **Interpretation:** In this clause, "PPSA" means the Personal Property Securities Act 1999, and the terms "security interest", "financing statement", "verification statement", "financing change statement" and "purchase money security interest" have the meanings set out in the PPSA.
- 11. VACCINE FRIDGES AND OTHER EQUIPMENT**
- 11.1 **Zoetis equipment:** We may provide, or may previously have provided, you with a vaccine fridge, merchandising units or other item of equipment ("Zoetis Equipment"). The provision of any Zoetis Equipment, including any such equipment already in your possession or control, is governed by this clause 11. If you do not wish to retain any Zoetis Equipment already in your possession or control on the terms of this clause 11, you must notify us and must arrange for the Zoetis Equipment to be returned to us as soon as practicable.
- 11.2 **You hold on trust:** Any Zoetis Equipment provided to you is held by you as our trustee, fiduciary agent and bailee and you must not charge, mortgage or otherwise encumber it. You must ensure that any Zoetis Equipment is stored or identified such that it is readily distinguishable from other equipment held at your premises.
- 11.3 **Zoetis Equipment for Zoetis products:** You must only keep our products in the vaccine fridge and you must only use other Zoetis Equipment together with our products (unless otherwise expressly agreed with us).
- 11.4 **You must insure:** You acknowledge that we provide Zoetis Equipment as a goodwill gesture and that, to the extent permitted by law, we do not make any representations about its quality or fitness for purpose. Subject to applicable law (including the CGA, where it applies) you agree that you accept the Zoetis Equipment "as is" and that its use by you is at your own risk. You must insure the Zoetis Equipment and we recommend that you procure insurance against the Zoetis Equipment malfunctioning (if a vaccine fridge breaks, we will not replace product that is rendered useless).
- 11.5 **You must care for the Zoetis Equipment:** You must care for the Zoetis Equipment in the same manner as a responsible owner would.
- 11.6 **Return:** If you breach these terms or if we consider you to be an insolvency risk, you must immediately on our request return the Zoetis Equipment and we may enter your premises, or any other premises at which the Zoetis Equipment is stored, to retake possession of it.
- 12. PRIVACY**
- 12.1 **Collecting and handling of personal information:** We may collect personal information as a result of our dealings with you, including information about your directors, partners, other representatives or guarantors. If we do, we will comply with the New Zealand Privacy Act and our privacy policy available on our website at www.zoetis.co.nz. You have rights under the Privacy Act to access and correct information we hold about you.
- 12.2 **Regulator-required information:** Without limiting clause 12.1, we may need to collect information and conduct security checks on you and your staff in connection with regulatory agency requirements. If so, you must promptly provide all such requested information and procure all necessary consents to our collection, use and disclosure of that information and we will comply with all relevant privacy laws relating to it.
- 12.3 **End-user information:** If the sale of a product requires you to collect, use or disclose, on our behalf, any personal information, you must do so in accordance with all applicable privacy laws and generally accepted good practice.
- 12.4 **Information you provide to us:** If you provide us with personal information, you must have obtained consents from the persons to whom the information relates to for our collection, use and disclosure of it.
- 13. GENERAL**
- 13.1 **No waiver:** Any waiver by us of a provision of or right granted under these terms is only effective if in writing and signed on our behalf. Any failure or delay in exercising a right under these terms will not prevent us from exercising that right at another or a later time.
- 13.2 **Variation:** We may vary these terms at any time in our discretion by updating them at www.zoetis.co.nz.
Law and jurisdiction: These terms are governed by the laws of New Zealand and you submit to the exclusive jurisdiction of the New Zealand courts.