

## Terms & Conditions

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### 1 Introduction

- 1.1 **Definitions.** These terms & conditions apply to all goods which we provide you with. "Our product" is the applicable goods or service that we provide you with. You cannot vary these terms & conditions without our written approval.
- 1.2 **Us.** All references to "us", "we", "our" etc, refer to ZebraVet Qld Pty Ltd ACN 105 289 094, its officers, employees and agents.
- 1.3 **You.** All references to "you", "your" etc refer to the customer placing the order and its representatives and if more than one, each of them jointly and severally.
- 1.4 **Supersede.** These terms & conditions supersede any earlier negotiations and representations (whether verbal or written), agreement for the same goods, and/or terms & conditions.
- 1.5 **Changing these terms.** We may change these terms & conditions at any time and you will be bound by any change on the date that we give you notice of such change. You are deemed to have received notice (whether or not you actually receive it) when we:
- (a) send you the changed terms & conditions to any address you have advised us of (including an email address); or
  - (b) place the changed terms & conditions on our website: [www.zebravet.com.au](http://www.zebravet.com.au).
- 1.6 **PPSA.** For the purposes of the *Personal Property Securities Act 2009 (PPSA)*:
- (a) goods supplied by instalment made under these terms are not a separate security agreement but form part of these terms together with any credit application, guarantee or indemnity or other contractual documents;
  - (b) an instalment contract is and is deemed to be a single security agreement for the purposes of the PPSA; and
  - (c) notwithstanding clauses 1.4 and 1.5, these terms form a continuous security agreement with any prior terms and do not constitute a separate security agreement.
- 1.7 **Application of clause 1.6.** Clause 1.6(c) applies regardless of any term to the contrary in these terms, any invoice or any other document.

### 2 Our information

- 2.1 **Contact details.** Our contact details are as follows unless we notify you in writing of any changes:

Name: ZebraVet Qld Pty Ltd ACN 105 289 094;  
Telephone number: 1800 447 385;  
Facsimile number: 1800 447 948;  
Email address: [info@zebravet.com.au](mailto:info@zebravet.com.au);  
Postal address: PO Box 268, Sherwood, Qld, 4075; and  
Website: [www.zebravet.com.au](http://www.zebravet.com.au).

### 3 Quotes and orders

- 3.1 **Quotes.** Any quote we give you will be valid for 30 days (or such other time stated at the time we give the quote) from the date of that quote and we can withdraw, modify or vary that quote up until any time we deliver our product to, or provide the service for, you. Any quote accepted by you will be an order for the purpose of these terms & conditions.
- 3.2 **Prevailing terms.** We will not be bound by your order until we accept it, which we may do by delivering our product to. If the terms of your order differ from these terms & conditions, these terms & conditions will prevail.
- 3.3 **Order form.** You are responsible for checking the prices of our product in any quote or your order and that the quote or your order sets out the goods you require. We take no responsibility for any omissions or errors in the description of the goods or the prices set out in the quote or order.
- 3.4 **Method of ordering.** You may only make an order by completing our order form and returning by facsimile or email or by placing an order via our website listed in clause 2.1.
- 3.5 **No cancellation.** You cannot cancel any order you place with us without our written consent.
- 3.6 **Completion of order.** We try and ensure that all details, descriptions and prices which appear on our website and/or catalogue are accurate. However, errors may occur. We may choose to not fill any orders (or part of an order) that you have placed where the website and/or catalogue contains errors or inaccuracies, including, without limitation, errors, inaccuracies or out-of-date information regarding pricing, shipping, payment terms, or return policies.
- ### 4 Price
- 4.1 **Variation.** Prices listed in our catalogue for the relevant goods are fixed until we issue a revised catalogue or otherwise notify you that the prices have

- been revised (which may be noted in the quote, catalogue or website). We can vary prices at any time prior to accepting your order.
- 4.2 **Amount.** You will pay us according to the applicable prices at the date of delivery of the goods without deductions or setoff unless quoted by us or we otherwise advise.
- 4.3 **Statutory charges excluded.** All prices are exclusive of sales tax, goods and services tax and other statutory duties and are net cash at our warehouse unless otherwise stated. You must pay any sales tax, goods and services tax or other statutory charges in addition to the base amount when requested by us. Where goods and services tax is payable we will provide you with an invoice identifying the goods and services component in Australian dollars
- 4.4 **Other costs.** Any additions or increases in the cost of the supply of goods as a result of any additions or increases in charges, taxes (including the rate of GST) or costs associated with manufacture or supply of goods by us, including without limitation increases due to variations in exchange rates, the cost of materials, labour or production, freight, insurance, process costs, rental or licence fees, delivery and/or the cost of conforming with any relevant legislation, court orders, regulations or bylaws, between the date of our relevant quotation or tender or, where there is no such quotation or tender, from the date of our acceptance of your order, as the case may be, and the date of supply of the relevant goods shall be borne by you.
- 4.5 **Currency.** Unless otherwise stipulated all references to dollars are references to the lawful currency of Australia unless otherwise stated and agreed upon.
- 4.6 **Payment for goods.** For goods purchased we will invoice you on delivery and you must then pay us in Australian dollars within 30 days from the end of the month of the despatch of the goods.
- 4.7 **Letter of credit.** At our sole discretion we may require you to provide an irrevocable letter of credit or bankers draft in favour of us on such terms and in such form as is acceptable to us.
- 4.8 **Reduction of credit.** We may reduce or stop any credit extended to you in the event that we, in our reasonable discretion, determine that your financial situation or ability to pay is impaired.
- 4.9 **Unpaid invoices.** Unless otherwise agreed by us in writing, we reserve our right to charge you interest at 3% per month on any amount unpaid which will be calculated from the due date and capitalised monthly.
- 4.10 **Stop credit.** Unless otherwise agreed by us in writing, we will stop the supplying of credit to you if payment has not been received from you 14 days after the due date.
- 4.11 **Closure of account.** If full payment has not been received from you within 60 days of the due date we may close any account including any credit account you may have with us.
- 4.12 **Methods of payment.** We accept payment by electronic funds transfer, cheque, money order, credit card or by direct debit facility. There is a \$40 returned payment fee for any declined cheques/automatic withdrawals.
- 4.13 **Special order products.** Special order products are subject to a 50% deposit before being ordered or manufactured. A list of special order products is available upon request. The final balance of the invoice is to be paid in accordance with clause 4.6.

### 5 Delivery of goods

- 5.1 **Instructions.** You must give delivery instructions in your goods order, and where possible, we will arrange for delivery in accordance with those instructions. You must ensure that someone is present to accept delivery of the goods and the accompanying invoice on your behalf. As well as paying for the goods, you will pay the carrier's costs of transporting the goods from our warehouse according to your delivery instructions unless prior arrangements are made at the time you make your order. We reserve the right to select the carrier in all cases.
- 5.2 **Delivery costs.** Please refer to our website or contact us by email or telephone for our delivery costs. We reserve the right to change these delivery costs at any time.
- 5.3 **Timing estimates only.** Any quote we provide for the supply or delivery of goods is an estimate only. Delay in supply or delivery of goods will not affect your obligation to accept or pay for the relevant goods.
- 5.4 **Instalments.** We reserve the right to supply or deliver goods by instalments. Each instalment will be deemed to be sold under a separate contract. You cannot repudiate the order if we fail to supply or deliver the goods in an instalment.

### 6 Risk and insurance

- 6.1 **Risk.** Unless we otherwise agree in writing, where we provide goods to you, then you bear the risk of any deterioration, loss or damage to those goods from the time they are available for collection by the carrier.
- 6.2 **Insurance.** Unless we otherwise agree in writing, you are responsible for all insurance of the goods in transit from the time the goods are available for collection by the carrier.

## 7 Product warranty

- 7.1 **Warranty.** All goods sold by us are free from defects at the time of sale.
- 7.2 **Product care.** You must comply, at your cost, with any recommendations we make for the packaging, transport and storage of the goods. You are solely responsible for any defect in or damage to goods caused or contributed to by your failure to fully comply with all of those product care recommendations.
- 7.3 **Inspection on Delivery.** You must inspect the goods as soon as they are delivered and if you do not, you will be deemed to accept those goods, including that the number (processed or otherwise) provided complies with the order.
- 7.4 **Claim.** If you believe that goods do not comply with our warranty, you must make a claim to us either by post or email to the addresses in clause 2 within:
- 48 hours after receipt of the goods, if for shortages; or
  - 7 days after receipt of the goods, if for defects.
- 7.5 **Our action.** Subject to clauses 7.6 and 7.7, we will, in our sole discretion:
- replace the goods or part of them; or
  - wholly or partly recompense you by providing credit or reimbursing you.
- 7.6 **Conditions precedent.** Clause 7.5 is conditional on you having:
- inspected the goods on delivery and did not sign for them as damaged stock;
  - notified us of your claim under clause 7.4;
  - allowed us access to inspect the goods and investigate your claim; and
  - having not used the goods and you have not further damaged those goods.
- 7.7 **Deemed compliance.** Where you did not comply with any of the conditions in clause 7.6, our product will be deemed to comply with your order and you will be bound to pay for our product in accordance with these terms.
- 7.8 **Approval and Procedure.** Only after obtaining our approval, you may return the goods to us and must comply with all directions which we give you, including which carrier you must use.
- 7.9 **CC Act Consumer.** If you are a consumer under the *Competition and Consumer Act 2010 (Australian Consumer Law)* then:
- the benefits to you given by the warranty in clause 7.1 are in addition to other rights and remedies of yours under Australian Consumer Law in relation to the goods to which the warranty relates;
  - our goods come with guarantees that cannot be excluded under the Australian Consumer Law;
  - you are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage in accordance with the Australian Consumer Law;
  - you are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure in accordance with the Australian Consumer Law; and
  - expenses incurred in making, and verifying, the claim will be borne by in accordance with Australian Consumer Law:
    - us, up to a maximum of \$100.00, in the event we decide (acting reasonably) that the claim was validly made; or
    - you in all other circumstances.
- 7.10 **Unwanted returns.** In our sole discretion, we may provide you with an equivalent amount of credit for any unwanted goods provided you:
- return the goods to us within 7 days of delivery of the goods and the goods are:
    - still listed in the published price list or catalogue; and
    - in original packing, in an unsoiled, undamaged and resalable condition;
  - agree that the goods will be subject to a discretionary restocking charge of 17.5% of the original invoice amount if we, solely at our discretion, decide that the goods are not in a "as new" condition; and
  - return the goods with our goods return authorisation detailing packing slip number, original invoice number and reason for the return.
- 7.11 **Third Party Manufactured Goods.** We will not warrant goods that are supplied by us but are not manufactured by us or a related entity of ours, and anything deemed by us not to be manufactured by us (**Third Party Manufactured Goods**). In the event Third Party Manufactured Goods are defective or damaged goods, the claim will be passed onto the original equipment manufacturer or supplier and will be subject to their warranty terms and conditions.
- 7.12 **Transportation costs.** Subject to clause 7.9(d), you must pay all transportation costs to and from our nominated service facility unless the goods are being returned due to our distribution error and you notified us of that error within 7 days of delivery.

## 8 Liability & warranty

- 8.1 **Exclusion of legislation.** The provisions of all legislation, including the Australian Consumer Law and the *Fair Trading Act 1989 (Qld)*, do not apply

to these terms & conditions except to the extent that they are unable to be excluded by legislation.

- 8.2 **Limitation of liability.** Subject to clause 8.1 and other product warranties set out in these terms & conditions:

- we give no guarantee, warranty, undertaking or representation in relation to the goods sold, their quality, fitness for any purpose, their compliance with any description or sample, or otherwise;
- we will not be liable to you for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, spontaneous combustion, fermentation, asbestos claims, flood, drought, storm, pollution, radioactive contamination or other event beyond our reasonable control;
- our liability to you arising in any way in relation to our product (including product contamination) will be limited to the extent of our warranty contained in clause 7;
- in no case will our liability extend to any direct, incidental or consequential damage to property, personal injury or loss of profit;
- all information contained in any of our publications (including our catalogues, brochures, photographs, illustrations, website or any advertising material) represent generally the subject matter and price of our product but will not be taken as necessarily representing our product the subject of any order or the correct price and will not form part of any contract or agreement for supply; and
- except as otherwise expressly provided in these terms & conditions, you release us from and indemnify us against all actions, claims, demands, losses, liabilities, damages and expenses arising from or in relation to the supply of our product including but not limited to any claims by third parties of any kind,

and you acknowledge that we would not have entered into any contract with you if any of the above were not true.

- 8.3 **Reliance.** You acknowledge that you have not relied on and have not been induced to purchase the goods based on any representation by us other than as expressly recorded in these terms & conditions.
- 8.4 **Product recall.** In the event that we instigate a product recall, then you must comply with any reasonable request that we or our insurers have (provided we pay for freight on recalled goods), and our liability will be limited to the amounts referred to in clause 8.2 plus that freight cost (if any).
- 8.5 **Maximum liability.** Notwithstanding clause 8.1, if we are found liable by operation of law, our total liability (including death or personal injury occurring as a consequence of any negligent act, omission or default on our part, under or in connection with this agreement), whether in contract, tort or otherwise must not exceed \$1,000,000.

## 9 Passing of title

- 9.1 **Title passes on full payment.** Title to the goods will not pass to you until we receive your full unconditional payment for all goods provided by us to you.
- 9.2 **Ordinary Course of Business.** You may sell or otherwise dispose of the goods supplied by us in the ordinary course of your business.
- 9.3 **Bailment.** Until title in the goods passes to you, you are the bailee of the goods and as bailee, assume all of the duties and liabilities of a bailee in respect of the goods.
- 9.4 **Default.** If you are in default under these terms & conditions or commit an act pursuant to which bankruptcy or insolvency proceedings may be commenced against you, then:
- we may, without notice to you, immediately recover possession of the goods from wherever they are stored and you waive the right to receive any statutory or PPSA notice;
  - we may cancel deliveries to you;
  - we may stop carrying out the service (even if partially processed goods will be spoiled);
  - payment of all monies which you owe to us will immediately become due and payable on demand;
  - we may vary the terms of payment or suspend or terminate any contract for the supply of our product to you;
  - in addition to any other lien to which we may be entitled, we will be entitled to a general lien on all money and property belonging to you in our possession to the extent of the unpaid price of our product;
  - we may sell any property of yours in our possession and use the proceeds to pay towards our costs of your default; and
  - we may destroy or discard of any part of your property in our possession if the likely proceeds of sale will exceed the costs of selling those items.
- 9.5 **No compensation.** You are not entitled to any compensation in relation to any action which we take under the previous clause.
- 9.6 **Indemnity.** You will indemnify us against the costs of any action in respect of recovery, handling and sale or re-sale, including without limitation any debt collection agency fees and solicitors' fees (on an own solicitor-client basis), and the balance of any amount owing following sale or re-sale will be immediately due to us. A certificate produced by us will be conclusive evidence of the balance of the amount which you owe us.
- 9.7 **Right to proceeds.** Where you dispose of the goods before payment to us, the sale proceeds of such disposal are our property and you hold the

proceeds on trust for us. Further, you, in disposing of the goods before payment to us, do so as our fiduciary agent.

9.8 **Further assurance.** You appoint us and each of our directors as your joint and several attorneys for the purpose of doing all acts, matters or things we think are necessary to give full effect to this clause 9.

## 10 PPSA

10.1 **PPSA defined terms.** Terms referred to in this clause 10 will, unless the context otherwise requires, have the same meaning given to those terms in the PPSA.

10.2 **PPSA Security Interest.** You acknowledge and agree that:

- (a) these terms & conditions are a Security Agreement for the purposes of the PPSA;
- (b) we may register our Security Interest in the goods and their Proceeds on the Register via a Financing Statement or Financing Change Statement as a Purchase Monies Security Interest or any other Security Interest we deem appropriate;
- (c) for the purposes of paragraph 10.2(b), property is described as veterinary goods, equipment, disposables and associated goods and including any property described in an order;
- (d) you will sign any documents and provide all assistance and information required in order for us to attend to the registration and maintenance of any Security Interest;
- (e) you will ensure that our security position, rights and obligations, are not adversely affected by the PPSA;
- (f) unless we have consented in writing or otherwise specifically permitted under these terms & conditions:
  - (i) you will not register a Financing Change Statement in respect of a Security Interest relating to these terms & conditions; and
  - (ii) you will not allow a third party to register, a Financing Statement or a Financing Change Statement in relation to the goods and their Proceeds;
- (g) in order to satisfy obligations secured by a Security Interest contemplated or constituted by these terms & conditions, we may, in our absolute discretion, utilise amounts received in relation to these terms & conditions in whatever way we decide; and
- (h) you will give us at least 14 days written notice of any proposed change in any of your details, either in the credit application or those registered, or required for registration, on the Register.

10.3 **PPSA Exclusions [s115(1)].** To the extent allowable under section 115(1) of the PPSA, sections 95, 96, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142, and 143 of the PPSA are contracted out of and your rights pursuant to them cease.

10.4 **PPSA Exclusions [s115(7)].** To the extent allowable under section 115(7) of the PPSA, sections 127, 129(2) and (3), 130(1), 132, 134(2), 135, 136(3), (4) and (5), and 137 of the PPSA are contracted out of and your rights pursuant to them cease.

10.5 **Waiver.** You waive your rights pursuant to section 157 of the PPSA to receive notice of Verification Statement.

10.6 **Non-Disclosure.** You and we agree not to disclose information in connection with these terms & conditions (including the existence of any terms or the exercise of any rights under these terms & conditions) that is not publicly available except if the information is:

- (a) disclosed with the prior consent of the other party to these terms & conditions (which must not be unreasonably withheld);
- (b) disclosed to your or our officers, employees, auditors, legal or other advisers; or
- (c) is information which the disclosing party reasonably believes is required by any law or stock exchange to be disclosed (except that this clause 10.6 does not permit us to disclose any information of the kind referred to in section 275(1) PPSA unless section 275(7) of the PPSA applies).

## 11 Intellectual property

11.1 **Our Intellectual Property.** We own and retain all intellectual property rights in and connected to our product and any related materials.

11.2 **Act Consistently.** You will not at any time do any act inconsistent with our intellectual property rights.

## 12 Your details

12.1 **True and Correct.** You certify that all information that you provide us to induce us to supply our product is true and correct.

12.2 **Warrant, authorise and consent.** You, your business partners, directors and any persons that provide a surety or guarantee in support of us providing you credit all:

- (a) warrant that none of your members and/or directors are undischarged bankrupts, have ever been bankrupt, convicted of any criminal offence or have any pending criminal offence court proceedings; and
- (b) authorise us to collect, update and use information (whether personal or otherwise) about you or that is collected from third parties permitted under the Privacy Act 1988(Cth) (including disclosing that

information to persons in the manner permitted by the Privacy Act 1988 (Cth) including without limitation our related entities and any business units).

## 13 Warranty and further assurances

13.1 **Warranties.** You warrant that:

- (a) you have provided us with all information required under these terms including but not limited to clauses 10 and 12;
- (b) you have disclosed to us in writing all of your details including any trusts and related trust ABNs; and
- (c) nothing of relevance that should have been disclosed has been omitted.

13.2 **Further information.** You must provide us with any further information that we require immediately upon our request.

## 14 General

14.1 **Force Majeure.** We will not be liable for any delays or loss or damage you suffer arising from any cause beyond our control including but not limited to delays in transportation, handling or supply, accidents, fire, strikes and other labour disputes, terrorist acts, acts of God, the requirements of any law or Government agency or other circumstance whether or not of a similar nature beyond our control, until that cause has ceased to have effect.

14.2 **Time.** With the exception of the time for delivery, time shall be of the essence.

14.3 **Relevant Law.** These terms & conditions will be construed in accordance with the laws of Queensland and the parties submit to the jurisdiction of the Queensland courts.

14.4 **Waiver.** The failure of either of party to exercise any rights under these terms & conditions will not waive that right, nor will any practice developed between us waive or lessen our respective rights under these terms & conditions.

14.5 **Severance.** Any provision of these terms & conditions which is found by a court of competent jurisdiction or any competent government authority to be invalid, illegal or unenforceable, will be severed from these terms & conditions and will be deemed never to have been part of them.

14.6 **No Restraint.** No provision expressed or implied in these terms & conditions restricts our right to sell the goods or provide services to third parties, whether or not you have sold the goods to those third parties at any time.

14.7 **Confidentiality.** You must treat all information which we give you as private and confidential, and must not disclose that information to any person nor use it in any way which may cause us injury or loss unless that information is public knowledge or was known by you before we gave it to you.

14.8 **Clerical Errors.** We reserve the right to correct clerical errors without notification.