

## STANDARD TRADING TERMS AND CONDITIONS OF SMITH & NEPHEW (PTY) LTD

- STC'S** : The supply of any goods on credit to any customer by Smith & Nephew (Pty) Ltd ("**S&N**") is subject to these standard trading terms and conditions ("**STC'S**"). The customer's standard or other trading terms and conditions do not apply. By ordering goods from S&N, the customer is deemed to accept these STC'S. S&N may amend these STC's at any time without notice to the customer. If the customer orders any goods from S&N after these STC's have been amended, the amended STC's will apply to the customer's order.
- PRICE** : The prices of the goods which the customer orders are the prices on S&N's price list at the time when S&N accepts an order. The prices exclude Value Added Tax ("**VAT**"). Unless otherwise agreed with the customer in writing, S&N may change its prices without notice to the customer.
- ORDERS** : Orders will only be accepted for values in excess of R1000.00 and will be supplied in complete units (multiples) of the minimum order quantities reflected in the price list.
- INVOICING** : S&N shall send to the Customer a tax invoice in respect of the goods ordered by the customer in the manner selected in the credit application form. It shall be deemed to have been received on the day of delivery in respect of by hand or courier delivery and received on the day following the date of transmission if sent by email or fax, or within six (6) days after the date of posting, if sent by ordinary mail.
- DELIVERY** : If S&N or its carrier delivers the goods to the customer, delivery takes place when the customer begins unloading the goods at the delivery address set out in its order. If the customer or its carrier collects the goods from S&N's premises, delivery takes place when the customer or its carrier begins loading the goods on collection at S&N's premises. Although S&N will try to deliver the goods to the customer by the delivery date requested in the customer's order, S&N is not bound to do so. S&N is not liable for any loss or damages of any nature which the customer may suffer as a result of any delay in the delivery of the goods which the customer has ordered. The customer is not entitled to cancel an order as a result of any delivery delay.
- OWNERSHIP OF GOODS** : Ownership of all goods supplied remains vested in S&N until such time as S&N has received full payment of the whole price of such goods.
- RISK** : The risk in and to the goods passes to the customer on delivery.
- SHORTAGES** : S&N will not consider any claims for shortages in goods delivered unless S&N receives those claims within three (3) business days after delivery of the goods to the customer.
- DEFECTS** : All goods sold by S&N to the customer shall be deemed to be supplied in a good condition, free of all defects and not yet expired unless the customer notifies S&N to the contrary, in writing, within three (3) business days after delivery of the goods to the customer.
- LIMITATION OF LIABILITY** : S&N's liability to the customer for any direct and/or indirect, consequential or special damages is limited to the cost of replacing any goods which the customer proves are defective upon delivery, and/or refunding to the customer the price paid for any such defective goods.
- RETURNS** : No goods may be returned to S&N without prior written authorisation of S&N's sales representative. S&N reserves the right to levy a handling fee of 5% of the invoice value in cases related to customer error. This handling fee may be increased to 15% of the invoice value where goods are returned without the prior written authorisation of S&N's sales representative. Goods which carry expiry dates may not be returned unless they are received by S&N a minimum of six (6) months prior to the expiry date thereof.
- PAYMENT** : S&N does not accept any risk relating to payments. If payment is made by cheque or electronic funds transfers ("**EFT**"), it is the customer's responsibility to ensure that the payment is received by S&N. The customer's liability to S&N will only be discharged when S&N receives as freely available funds in its bank account the full amount due. EFT payments must be made to Smith & Nephew (Pty) Ltd: Standard Bank, Pinetown Branch IBT 04-56-26 Account No. 250 302 020.
- CREDIT TERMS** : S&N's credit terms are strictly 30 days from date of statement.

- CREDIT LIMITS : The credit limit granted to you by S&N is within S&N's discretion. If you require your credit limit to be increased, you may provide S&N with a written request to that effect, including the credit limit which you require. S&N is not obliged to increase your credit limit to the extent requested, or at all. S&N may decrease your credit limit or stop granting you credit if you do not purchase any goods from S&N on credit for a continuous period of 180 days.
- BREACH : **You breach this agreement if:**
- you fail to pay any amount that is owing to S&N on due date;
  - any material information disclosed in any application for credit facilities with S&N is incorrect, or you fail to make full disclosure of the required information;
  - you commit an act of insolvency as defined in the Insolvency Act 24 of 1936, as amended or replaced from time to time, or, what would be an act of insolvency if committed by a natural person;
  - any application is lodged to liquidate or sequestrate you.
- Without prejudice to any of its other rights, if you breach this agreement, then S&N may:**
- immediately stop granting you credit;
  - suspend any deliveries to you and immediately take the necessary steps to recover all amounts owing to S&N, irrespective of whether or not they are then due;
  - terminate this agreement 10 business days after notifying you that it intends to do so.
- COSTS : In the event of S&N incurring any legal costs as result of a sale transaction, whether or not action is instituted, the customer undertakes to pay on demand all costs incurred by S&N as between attorney and own client and in the case of late payment, a collection commission at the rate of 10% of each amount paid by the customer after S&N has instructed its attorneys.
- JURISDICTION : The customer consents to the jurisdiction of the Magistrate's Court in respect of any action instituted by S&N arising out of this contract, even if the nature of the claim concerned exceeds the jurisdiction of that court.
- QUERIES : Please direct all price or delivery related queries to the S&N Customer Services Department by phone on toll free 0800 002898 or fax toll free 0800 331150 within three (3) days of receipt of goods.
- CUSTOMER CARE : Please direct product related questions or suggestions to the S&N Customer Care Department on telephone (031) 242 8111, fax (031) 242 8120, [www.smith-nephew.com/za](http://www.smith-nephew.com/za) or in writing to P.O. Box 92, Pinetown, 3600

**PLEASE NOTE:** If the customer is an individual or a company, CC, partnership, trust or other association of persons which has an annual turnover or asset value BELOW R2 MILLION, the customer has the rights set out in the Consumer Protection Act, 2008 and the following provisions of these Standard Trading Terms and Conditions may not apply to the customer:

- "STC's" clause, to the extent that it provides that the customer is deemed to have accepted these STC's and that S&N may amend the STC's at any time without notifying the customer of the amendments;
  - "Delivery" clause, to the extent that it provides that the customer cannot cancel an order for goods, S&N is not bound by any agreed delivery date, and S&N is not liable for any loss or damages as a result of any delay in the delivery of the goods;
  - "Shortages" clause, in its entirety;
  - "Defects" clause, to the extent that it requires the customer to report any defects in the goods to S&N within 3 days;
  - "Limitation of liability" clause, to the extent that such limitation relates to claims for death, injury, illness, damage to property and associated economic loss suffered as a result of the supply of defective goods by S&N;
  - "Returns" clause, in its entirety;
  - "Costs" clause, to the extent that it requires you to consent to a predetermined value of costs of enforcing the STC's; and
  - any other clause which may be declared to be excessively one sided in S&N's favour and unfair under the circumstances.
- **PLEASE MAKE SURE THAT YOU UNDERSTAND AND AGREE TO THE PROVISIONS OF THESE STC'S AND IN PARTICULAR, THE PROVISIONS WHICH HAVE BEEN SPECIFICALLY DRAWN TO YOUR ATTENTION.**