



TERMS AND CONDITIONS OF PURCHASES

The following terms and conditions apply to purchases of Santa Barbara Medco ("Physicians Choice") products. Any purchase order form sent by a purchaser ("Buyer") shall be for Buyer's convenience only, and any terms or conditions contained in such purchase order form, which are inconsistent with the following, and any additional terms and conditions shall be of no effect and shall be deemed deleted.

Payment. Net 30 days, subject to credit approval. Past due accounts will be charged 1.5% per month on the unpaid balance. Payment shall be in United States dollars and shall be deemed made when immediately available funds are received in Santa Barbara Medco's bank account. Payment by Visa or MasterCard credit cards is acceptable.

Prices. Prices are E.X.W. Santa Barbara Medco. Freight Prepaid and Add unless otherwise agreed. The prices for products are set forth in the applicable Santa Barbara Medco price list. All prices are exclusive of all sales, use, or other taxes, shipping charges from Eagan, Minnesota, insurance, customs duties, import taxes and other charges, all of which shall be paid by Buyer. Buyer is responsible for obtaining at its expense any import or other license or governmental approval to purchase the products. Santa Barbara Medco shall separately invoice Buyer for all such charges paid on behalf of Buyer by Santa Barbara Medco.

Shipment. Shipment dates quoted by Santa Barbara Medco are estimated. Santa Barbara Medco will use good faith efforts to ship on the dates quoted. Santa Barbara Medco shall not be liable for any damage or loss caused by any failure or delay in filling an order due to strikes or other labor troubles, natural disasters, delays in delivery of parts or merchandise by Santa Barbara Medco suppliers or other cause beyond the reasonable control of Santa Barbara Medco. Shipments are normally shipped via UPS. Buyer may request shipment via another carrier or on an expedited basis. Buyer shall promptly upon delivery inspect all products and shall notify Santa Barbara Medco of any wrong or short shipments within ten (10) days after delivery. Risk of damage or loss of the products passes on delivery of the products to the carrier, and claims for damages or losses in shipment should be made to the carrier.

Warranty. Santa Barbara Medco does not warrant the products for any use which is different than the product's intended and approved use. Santa Barbara Medco warrants that the products will be free of defects in material and workmanship for a period of one (1) year from the date of shipment. In the event that a product is defective and notice of the defect is given to Santa Barbara Medco within one (1) year from the date of shipment, Santa Barbara Medco will, at its option, repair or replace the defective product or credit Buyer with the purchase price paid. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY DISCLAIMED. IN NO EVENT SHALL SANTA BARBARA MEDCO HAVE ANY LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, DAMAGE TO GOODWILL, LOSS OF TIME, INCONVENIENCE OR OTHER COMMERCIAL OR ECONOMIC LOSS. THE REMEDY STATED ABOVE IS THE EXCLUSIVE REMEDY FOR BREACH. If Buyer is purchasing products for resale, Buyer agrees not to give or make any other warranty concerning the products to any person.

Returns. No products may be returned without prior **written** authorization from Santa Barbara Medco. Except for warranty claims described above. Opened, altered, damaged, obsolete and discontinued products will not be accepted. Credit will be given for authorized returns: for the full purchase price if received within thirty (30) days of the shipment date, and for the full purchase price less 15% restocking charge if received after thirty (30) but less than sixty (60) days after shipment; No returns will be accepted more than sixty (60) days after shipment.

Product Evaluations. Default evaluation period unless otherwise agreed on in writing is 60 Days. Product will be billed at quoted prices if not returned within the agreed upon evaluation period. Customer is responsible for the condition of product. Returned product which has been used and/or altered or damaged will be billed to the customer.

Vigilance. Buyer agrees to notify Santa Barbara Medco promptly of any complaints or incidents relating to the products and provide such details as are requested by Santa Barbara Medco.

Records. Buyer agrees to keep complete and accurate records of all products resold by Buyer and in the event of a recall of any of the products to cooperate fully with Santa Barbara Medco to effect the recall, including contacting its customers and communicating such information as Santa Barbara Medco requests.

Attorney's Fees. Buyer agrees to pay Santa Barbara Medco reasonable costs, expenses and attorney's fees incurred by Santa Barbara Medco in enforcing Buyer's obligations or Santa Barbara Medco's rights hereunder, including collecting any money due from Buyer or successfully defending against any claim made by Buyer.

Relationship. Buyer and Santa Barbara Medco are independent contractors with respect to each other, and neither party is the agent or employee of the other or has any authority to make representations on the others' behalf or bind it in any way. Absent an express written agreement between Buyer and Santa Barbara Medco, acceptance of a purchase order by Santa Barbara Medco and the shipment of products there under shall not create an obligation on the part of Santa Barbara Medco to accept additional purchase orders for products.

Arbitration. The parties will use their best efforts to amicably settle any dispute in connection with this Agreement. Failing such amicable settlement, all disputes, claims and controversies between the parties arising under or in connection with this Agreement or the making, performance or interpretation thereof will be settled by arbitration. The arbitration proceedings will be conducted in the English language in Minneapolis, Minnesota under the arbitration rules of the American Arbitration Association; to the extent such rules are not inconsistent with the provisions of this arbitration provision. The arbitrator will have the right to award injunctive relief or other specific performance of this Agreement. The decision of the arbitrator will be in writing and final and binding on all parties, and may include any remedy (including injunctive relief) contemplated by this Agreement. Judgment upon the award of the arbitrator may be entered in any court having jurisdiction thereof.

Governing Law. The laws of the United States and the State of Minnesota will govern the purchase and sale of products by Santa Barbara Medco to Buyer.