



General Terms and Conditions of Sale H&R ChemPharm (Thailand) Limited

Scope

Asia

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For the sake of simplicity and easier reading, only the masculine form has been used.



1. Definitions

“Acknowledgement of Order”	means the written notice sent by H&R to Buyer indicating the Buyer’s order has been received but has not yet been accepted.
“Buyer”	means the purchaser of any products or services from H&R.
“Delivery Note”	means the note specifying the name and weight of Product and which is deemed to be handed to the Buyer at the point of delivery.
“Force Majeure Event”	means any circumstances whatsoever beyond H&R’s control, including but not limited to act of God, industrial action, wars, public health crisis, fires, floods, Government action, accident, breakdown of plant, failure or cuts in supplies of electricity, gas or water, or inability to obtain raw materials.
“H&R”	means H&R ChemPharm (Thailand) Ltd. and/or its affiliates selling Product(s) to the Buyer under this General Terms and Conditions.
“Incoterms”	refers to most current Incoterms – The International Chamber of Commerce rules for the use of domestic and international trade terms, and which are incorporated into and form part of these Terms & Conditions to the extent that they do not conflict with any of the terms herein.
“Order”	means the request to purchase Product sent by Buyer to H&R.
“Order Confirmation”	means the writing notice sent by H&R stating acceptance of the Buyer’s order and detailing estimated dispatch date, price and payment terms.
“Product”	means any tangible good or moveable property offered for sale by H&R or sold by H&R to Buyer.
“Safety Data Sheet”	herein referred to as “SDS” means the sheet of instructions of safe handling, storing and clean-up of a Product.
“Written Notice”	means may be provided by traditional mail, by facsimile transmission, or by electronic mail. Under no circumstances shall any short message service (SMS), telephonic text message, instant message service, social media post, or any other form of communication constitute sufficient notice under this T&C.

2. General Terms

- a) These conditions of sale apply to the supply of all products by H&R. H&R does not accept any of the Buyer’s conditions of purchase in part or in whole, even if the Buyer’s terms are declared to be the solely valid terms in order correspondence or in any other manner unless H&R has expressly agreed to any of them in writing prior to the date of the Acknowledgement of Order. By sending an Order to H&R, the Buyer agrees to the Terms and Conditions contained within this document.
- b) The contract between H&R and the Buyer is not formed until, and the Buyer is entitled to cancel its order any time up to, the date of the Order Confirmation.
- c) A quotation issued by H&R shall not constitute an offer to sell products and all quotations are subject to an Order being placed by the Buyer and an Order Confirmation being sent by H&R.



3. Price and Payment

- a) The price of the Products and the payment terms shall be stated on the Order Confirmation and are exclusive of any value added tax. If the Product is subject to higher or additional incidental costs than those on which the sales price is calculated, such as duty, freight costs, charges, taxes and similar costs or higher wages and/or raw material prices, the sales price shall be changed accordingly. Freight costs for detour as well as other surcharges may be added to the price.
- b) All payments will be made by direct debit or any other reasonable means of electronic payment requested by H&R. Cash payments are not accepted as a method of payment. This also includes cash deposits made to H&R's bank accounts. H&R does not accept payments made by third parties on behalf of the Buyer. Such payments may be authorized by way of exception if the Buyer announces that a third party is making payments on their behalf and the Buyer provides information about the third party and the exact circumstances of the payment. H&R may appropriate any payment made to it to such products and accounts as it thinks fit.
- c) H&R may at any time withhold any sum due from H&R to the Buyer and set off the same against any sum due from the Buyer to H&R under any contract whatsoever, and the price of all products supplied is due on delivery even though title in the products may not have passed to the Buyer. Buyer must make full payment without any deduction for set off or counterclaim.
- d) Late payments on the amount outstanding by the Buyer shall bear interest at the rate of eighteen percent (18%) per annum, calculated on daily rates from the due date for payment until payment and all outstanding monies together with any interest shall be recoverable forthwith from the Buyer.
- e) H&R reserves the right to suspend deliveries of products and/or require pre-payment with Order where the Buyer's credit limit has been exceeded or where the Buyer has failed to make any payment by the date on which that payment is due.

4. Delivery

- a) The dispatch dates specified on the Order Confirmation are estimates only and H&R shall not be liable for failure to deliver by said date or dates.
- b) The Buyer shall accept the weight and/or quantity shown on the Delivery Note as represented at the time of the taking of those measurements.
- c) Where it is responsible for delivery, H&R shall deliver the Product to the place of delivery notified in the Order. If subsequently the Buyer wishes to change the place of delivery then the Buyer is responsible for any extra delivery charges. The Buyer shall ensure there is clear and uninterrupted access to the place of delivery.
- d) If the Buyer for any reason does not take delivery of the whole or part only of the Product then the Buyer shall be liable for the full cost of disposing of any unaccepted Product.

5. Force Majeure

- a) If H&R is unable to supply Product by reason of a Force Majeure, it shall not be in breach of contract, nor liable for any failure or delay in performance of any obligations under its contract with the Buyer arising from or attributable to said Force Majeure, and the time for performance of the obligations shall be extended accordingly.
- b) If a Force Majeure Event prevails for a continuous period of more than 28 days, H&R may terminate its contract with the Buyer by giving 14 days written notice to the Buyer. On the expiry of this notice period, the contract between H&R and the Buyer will terminate. Such termination shall be without prejudice to the rights of parties in respect of any breach of the contract occurring prior to such termination.



6. Claims

- a) The Buyer shall notify H&R in writing at H&R's registered office, within 3 days from receipt of the Product, of any shortage of, damage to, or non-conformity of the Product, and if the Buyer fails to follow this procedure then H&R will not be liable to replace or make good the same or be under any liability whatsoever to the Buyer.
- b) Once H&R has received the notice required by section a), H&R will use good faith to determine whether a shortage, damage, non-conformity, or other defect has affected the delivered Product. H&R shall have a reasonable amount of time to cure any defect before a breach of any purchase agreement may be claimed by the Buyer.

7. Limitation of Liability

- a) H&R's liability shall be limited to the cost or replacement of the Product. H&R shall not be liable for loss, damage or injury resulting from the use or handling of the product not in accordance with the SDS.
- b) Neither party shall be liable to the other for indirect, special or consequential damage, loss of profit, loss of contract or loss of goodwill arising out of any contract incorporating these terms and conditions, whether in contract, tort (including negligence and products liability) or otherwise.

8. Risk

Risk in the Product shall pass to the Buyer in accordance with the relevant Incoterm under which the Product is sold. H&R reserves the right to refuse to load any vehicles which it believes are unsuitable for the carriage of the Product for any reason.

9. Title

- a) Title to the Product remains with H&R, and the Buyer will hold the Product as bailee for H&R, until H&R receives payment in full. Pending payment the Buyer shall keep the Product separate and clearly identified as the property of H&R which must be returned or made available for collection at H&R's request.
- b) If the Buyer ceases, or threatens to cease, to carry on business, or becomes unable to pay its debts or if a receiver is appointed or if a distress, execution, sequestration or other process is levied or enforced on the Buyer's assets, or any equivalent event occurs in any jurisdiction then and in any such event H&R may enter onto the Buyer's premises (and the Buyer hereby gives its consent to such entry) without notice and recover the Product.

10. Licences, Trademarks and Trade Names

Nothing in these Terms & Conditions whether express or implied shall be deemed to confer any rights, colour scheme or other marketing indicia owned by H&R or any of H&R's affiliates in relation to the Product.

11. Warranty

- a) No warranty, condition or term (express or implied) as to condition or quality, or suitability for purpose of the Product is given or can be assumed. The Buyer acknowledges responsibility for determination of the condition, quality and suitability of the Product and expressly waives all reliance upon H&R for the same.



- b) In pursuance of its policy of continued development and improvement H&R reserves the right to modify the specifications of its Product without prior notice. Where the Buyer agrees, in writing, to a special specification for a Product, then any information or advice given by H&R in arriving at that specification is accepted at the Buyer's risk.
- c) All specifications, dimensions, weights and the like contained in any literature supplied by H&R or otherwise communicated to the Buyer are provided by H&R in the belief that they are as accurate as reasonably possible, but they do not constitute a description of the products, nor are they warranted to be accurate.

12. Health and Safety

- a) The Buyer shall comply with and ensure that its customers, employees, agents and contractors comply with all information contained in the SDS or other information which H&R may supply from time to time and shall indemnify and keep H&R indemnified against any liability claim proceeding, cost or expense arising out of or in connection with any failure to comply with this obligation. Compliance by the Buyer with the SDS shall not excuse the Buyer from any other obligation or recommendation it is required to comply with in relation to the Product by virtue of any law, statute, regulation or directive.
- b) The Buyer agrees to indemnify and hold harmless H&R, its officers, employees, agents and representatives from and against all damages, losses, liabilities, penalties, costs and expenses, including reasonable legal fees, as a result of any claim, suit, action, proceeding, demand, judgment or settlement arising out of the Buyer's failure to adhere to the provisions of this clause.

13. Confidentiality

The Buyer is responsible for ensuring that documents and other information provided by H&R orally or in writing, is not brought to the knowledge of third parties, without prior written authorization by H&R.

14. Assignment

The Buyer may not transfer any contract it has with H&R in whole or in part without the prior written consent of H&R. H&R may assign or transfer any such contract or any part thereof to an affiliate.

15. Severability

In case that any provision of the Terms and Conditions shall be held invalid, ineffective, or prohibited under applicable laws, such invalidity, ineffectiveness, or prohibition shall not affect other conditions hereof.

16. Entire Agreement

These Terms and Conditions constitute the entire understanding between the parties with regard to the supply of Product and supersede all prior negotiations, representations or agreements, written and oral, which the parties may have had. This contract does not establish an agency relationship, partnership or other relationship between the parties.

17. Applicable Law

The Terms and Conditions of Sale and the contract between H&R and the Buyer shall be governed by the laws of the State or Territory where the goods were supplied to the Buyer.