

## NWOS – New Appliance Partnership

### Terms and Conditions

These Conditions shall prevail and supercede over the Counterpart's terms and conditions (if any), whether printed on any invoice, order, quotation, specification or any other document provided by the Counterpart.

These Conditions replace any earlier conditions and may be changed by us in writing at any time, including by putting amended conditions on our website.

NWOS is a business-to-business supplier. The NWOS website and ordering portal is intended for use by business Counterparts and not by private individuals acting as consumers.

#### 1. Interpretation

1.1 In these Conditions the following expressions have the following meaning (unless the context requires otherwise):

**"Appliances"** means any item listed under Part IX A, B or C in the edition of the Drug Tariff current at the time of supply;

**"Business Day"** means any day other than a Saturday or Sunday or a public or bank holiday in England;

**"Fee"** means any fee agreed between the Counterpart and NWOS in writing;

**"Conditions"** means these terms and conditions of supply;

**"Contract"** means any contract between NWOS and the Counterpart for the transfer of possession of the Goods to the Patient via the Counterpart;

**"Counterpart"** means the person obtaining the Goods from NWOS to transfer possession to the Patient;

**"Drug Tariff"** means the current monthly tariff created by the PS in force at the date of this Contract stating the sum to be reimbursed to NWOS by the PS on behalf of the NHS for providing Goods in response to Prescriptions under these Conditions;

**"Exempt Goods"** means all medicines available either by prescription or in a pharmacy under the supervision or advice of a pharmacist, and such other goods as NWOS may decide from time to time are exempt from these Conditions;

**"Free Goods"** means any Appliances or goods gifted to the Counterpart or the Patient (via the Counterpart) by NWOS free of charge;

**"Goods"** means any Appliances (or any instalment or part of them) agreed to be supplied by NWOS to the Counterpart for it to transfer possession to the Patient;

**"NWOS"** is a division of OTC Direct Limited, a company registered in England under number 03118885 and whose registered office is at 43 Cox Lane, Chessington, Surrey KT9 1SN, trading as North West Ostomy Supplies from Leigh Centurion, Green Fold Way, Leigh WN7 3XJ;

**"Patient"** means the individual named on the relevant Prescription;

**"person"** means any individual, firm, body corporate, unincorporated association, Counterpartship or joint venture;

**"Prescription"** means any prescription supporting an order under these Conditions;

**"PS"** means NHS Business Services Authority Prescription Services acting on behalf of the Department of Health;

1.2 In these Conditions (unless the context requires otherwise) masculine includes the feminine and the neuter, and the singular includes the plural and vice versa.

1.3 Headings in these Conditions are for convenience only and will not affect its construction or interpretation.

#### 2. Formation of Contracts

2.1 Each order by the Counterpart shall constitute an offer to enter into a Contract with NWOS irrespective of the fact that the Counterpart will not take ownership of Goods under any Contract at any time.

2.2 No Contract will be created unless and until NWOS has accepted or confirmed the order in writing or has delivered the Goods without such prior written acceptance or confirmation.

2.3 NWOS will only accept orders for Appliances. Each order must be supported by:

2.3.1 the Counterpart's representation that a valid unstamped Prescription (whether exempt or non-exempt) signed by the Patient (or its agent or representative) in respect of which all fees have been paid will be forwarded to NWOS in accordance with clause 3.4;

- 2.3.2 the patient's full name; and
- 2.3.3 in the case of orders originating from a doctor, the doctor's NHS reference number.
- 2.4 If requested, the Counterpart will be responsible for ensuring that the Patient obtains and supplies to NWOS, before a Contract is formed, a separate unstamped Prescription for Appliances if the first Prescription presented is a mixed Prescription for both Appliances and Exempt Goods or (in the sole discretion of NWOS) the first Prescription is unacceptable
- 2.5 Orders supported by a stamped Prescription or made without a Prescription will be accepted only at NWOS' discretion and will not be subject to these Conditions but subject to NWOS' standard terms and conditions of sale (available on request).
- 2.6 NWOS reserves the right to reject an order without liability even if the accompanying Prescription (for Appliances or Appliances and Exempt Goods) is acceptable in all respects.
- 2.7 These conditions and all Contracts will be made only in the English language.
- 2.8 If Counterpart places an order for goods with NWOS through the online ordering service the following provisions will apply:
  - 2.8.1 The NWOS order process allows Counterpart to check and amend any errors before submitting the order to NWOS. Counterpart should check the order carefully before confirming it. Counterpart is responsible for ensuring that the order is complete and accurate.
  - 2.8.2 After Counterpart places an order, Counterpart will see an acknowledgment that NWOS has received the order, but please note that this does not mean that the order has been accepted. NWOS' acceptance of the order will take place as described in this [Clause 2](#).

### 3. Delivery/Carriage

- 3.1 Unless otherwise agreed by NWOS in writing, delivery shall occur at the Counterpart's premises. NWOS shall arrange and pay for carriage but may make an extra charge to cover any extra related costs incurred and any increase in transport costs that apply before the date we deliver the products and will notify you of any change in costs before delivery.
- 3.2 Sections 32(2), (3) and (4) of the Sale of Goods Act 1979 shall not apply to this Contract.
- 3.3 Subject to clause 2, NWOS will use reasonable endeavours to dispatch orders received by 4pm on a Business Day on the same day for next day delivery. NWOS reserves the right to make deliveries of Goods on Saturdays where orders are received before 4pm on a Friday.
- 3.4 Following delivery or deemed delivery of the Goods the Counterpart shall deliver relevant Prescriptions to NWOS within 3 Business Days for NWOS to forward the same to the PS for processing. Time is of the essence for delivering Prescriptions to NWOS and is an integral part of the Counterpart's consideration for this Contract. Prescriptions will only be deemed delivered when they are received by NWOS. If the Prescription is not received by NWOS within five (5) working days of the patient collecting the Appliance from the pharmacy or receiving it at home from the Counterpart, NWOS shall be entitled to charge the Counterpart the Drug Tariff price of that Appliance and the Counterpart shall pay within 30 days of an invoice from NWOS. If there is a dispute as to whether a Prescription was sent by the Counterpart and the Counterpart cannot show that it was sent by recorded delivery to NWOS, the Counterpart will be charged the Drug Tariff price of that Appliance.
- 3.5 NWOS may supply a reply paid envelope on delivery of the Goods for delivering Prescriptions to NWOS. Supply of such reply paid envelopes is not of the essence and failure by NWOS to supply such reply paid envelopes will not entitle the Counterpart to avoid the provisions of this Contract and, in particular, clause 3.4.
- 3.6 Delivery of unstamped Prescriptions is of the essence. If any Prescription is delivered to NWOS stamped and/or no unstamped Prescription has been received by NWOS within 5 Business Days after delivery or deemed delivery of the Goods, NWOS reserves the right to, at its discretion:
  - 3.6.1 return the Prescription to the Counterpart and deem the Goods sold subject to NWOS' standard terms and conditions of sale (available on request); and
  - 3.6.2 invoice the Counterpart at the Drug Tariff price for the Goods and such invoice will not be eligible for a Fee;
  - 3.6.3 If any unstamped Prescription has been received by NWOS within 5 Business Days after delivery or deemed delivery of the Goods, NWOS shall be entitled to accept that Prescription and deem the

Goods sold subject to these Conditions and credit any invoice raised under NWOS' standard terms and conditions of sale to the Counterpart's account.

- 3.7 The Counterpart may request and NWOS may decide at any time that delivery of Goods will be made by installments.
- 3.8 NWOS will not be liable to the Counterpart for any loss or damage to the Goods (or any part of them) prior to delivery or for any claim in respect of the delivery of defective Goods or where Goods are not in accordance with the Contract (such loss, damage, non-compliance or defect being one which should be apparent on reasonable inspection of the Goods), or for non-delivery (even if such failure is due to NWOS' negligence) unless it is notified in writing within:
- 3.8.1 3 days of delivery for loss, damage, defect or non-compliance with the Contract; or
- 3.8.2 5 days of formation of the Contract under clause 2 for non-delivery of the Goods.
- 3.9 If the Counterpart fails to notify NWOS of any loss, damage, non-compliance, defect or non-delivery pursuant to clause 3.8, the Goods will be deemed to be:
- 3.9.1 in all respects in accordance with the Contract, the Counterpart's order and the Prescription; and
- 3.9.2 accepted by the Counterpart.
- 3.10 Subject to clause 5, following deemed acceptance under clause 3.9 all claims in respect of loss, damage, defect, non-compliance or non-delivery shall be wholly barred.
- 3.11 In the event of a valid claim for any of the reasons given in clause 3.8 which is not barred under clause 3.10, NWOS shall only be liable to, at its option, refund the cost of the affected Goods or replace the affected Goods (at its own expense), if such are available, provided that it shall not be liable for any loss, damage, non-compliance, non-delivery or defect of any replacement Goods. If replacement Goods are not available this Contract shall be rescinded and any Fee paid to the Counterpart debited to the Counterpart's account or returned to NWOS and any Fee which would otherwise be due under this Contract will be cancelled.
- 3.12 NWOS will not replace any Goods which could not be returned under clause 4.2.
- 3.13 NWOS' obligation under clause 3.11 is in substitution for all rights, powers or remedies which the Counterpart would or might have but for the provision of this Contract and all such rights, powers or remedies and claims will be wholly barred.
- 3.14 If for any reason the Counterpart will not or cannot accept delivery of any Goods when such Goods are available for delivery:
- 3.14.1 the Goods shall be deemed as delivered;
- 3.14.2 risk shall pass to the Counterpart; and
- 3.14.3 NWOS may store (at the Counterpart's expense) those Goods and will notify the Counterpart as soon as is reasonably practicable of such storage.
- 3.15 Even where the Counterpart arranges and pays for carriage of Goods, the carrier shall be deemed an agent of NWOS for the purposes of sections 44 to 46 of the Sale of Goods Act 1979. 3.16 Unless otherwise stated in these Conditions, time of delivery is not of the essence and all agreed delivery times are estimates made in good faith.

#### 4. Returns

- 4.1 Goods under this Contract may only be returned with NWOS' prior consent and in accordance with NWOS' return policy. Unless otherwise expressly agreed by NWOS, the return of Goods will be to NWOS' address (at the Counterpart's expense). NWOS shall be entitled to charge a handling fee for any return that is required for a reason other than NWOS or the relevant manufacturer's default.
- 4.2 Subject to clause 5, NWOS will not accept return of Goods which:
- 4.2.1 are comprised of or contain sterile materials or parts (unless such Goods are returned in the same sterile condition as delivered or deemed delivered by the Counterpart);
- 4.2.2 are refrigerated (unless such return is accompanied by satisfactory evidence of maintenance of the cold chain);
- 4.2.3 which have not been stored in compliance with NWOS' oral or written instructions or any other instructions of which the Counterpart was aware as to storage, maintenance and handling of the Goods;

- 4.2.4 NWOS considers in its sole discretion are not suitable for resale;
- 4.2.5 subject to clause 4.2.8, have less than 12 months of shelf life remaining (unless such Goods were delivered or deemed delivered by the Counterpart with less than 12 months of shelf life remaining);
- 4.2.6 are presented for return in damaged or opened packaging or have been tampered with or altered by the Counterpart or its agents;
- 4.2.7 subject to clause 6, are returned by a person not a party to this Contract;
- 4.2.8 are sold on an expressly non-returnable basis.

## 5. Defective Goods

- 5.1 NWOS will accept the return of any Goods in which a defect appears during its normal shelf life and will replace the affected Goods (at its own expense), if such are available, provided that it shall not have any further liability in respect of those replacement Goods. If replacement Goods are not available this Contract shall be rescinded and any Fee paid to the Counterpart returned to NWOS and any Fee which would otherwise be due under this Contract will be cancelled.
- 5.2 NWOS' obligation under clause 5.1 is in substitution for all rights which the Counterpart would or might have but for the provision of this Contract and all such rights and claims will be wholly barred.
- 5.3 To exercise its right of return under clause 5.1 the Counterpart shall inform NWOS as soon as reasonably practicable and in any event within 3 days of the date when such defect appeared or which would have been apparent on reasonable inspection of the Goods and shall on NWOS' written request return the defective Goods or defective part of them (at the Counterpart's expense) to NWOS' Premises.
- 5.4 NWOS will not be liable for any defect in the Goods arising out of the acts, omissions, negligence or default of the Counterpart including, without limitation, failure by the Counterpart to comply with any of NWOS' oral or written instructions or any other instructions of which the Counterpart was aware as to storage, maintenance and handling of the Goods.
- 5.5 Where Goods are delivered by instalments:
  - 5.5.1 any defect in any instalment shall not enable the Counterpart to avoid acceptance of the non-defective remainder of the Goods; and
  - 5.5.2 NWOS shall only be liable to replace the defective part of the Goods, if such are available, pursuant to clause 5.1.

## 6. Recall

- 6.1 The Counterpart will and will use its reasonable endeavours to procure that the Patient will comply with all reasonable requests regarding the recall of any Goods or Free Goods or any part of them initiated by a the holder of a marketing authorisation or product licence or NWOS on behalf of such a holder.

## 7. Payment

- 7.1 Subject to the Counterpart's compliance with these Conditions and once all Goods due under a Contract have been delivered or deemed delivered, any Fee due under these Conditions will be paid into the Counterpart's account, on a monthly basis, by the end of the month following the month in which the relevant Prescription was dispensed subject to a deduction for:
  - 7.1.1 any sums due to NWOS under this Contract or any other contract between the Counterpart and NWOS; and
  - 7.1.2 any prescription charges paid to the Counterpart by the Patient for non-exempt Prescriptions. For the avoidance of doubt, prescription charges referred to in this clause 7.1 are those applicable in England at the date of the relevant Prescription(s).
- 7.2 Any incorrect Prescriptions returned by the PS will be returned to the Counterpart to arrange for correction and subject to a £2.50 handling charge or such other amount as NWOS may decide from time to time. Any Fee already paid for such Prescriptions will be debited to the Counterpart's account and any Fee which would otherwise be due under this Contract will be cancelled until a valid unstamped Prescription:
  - 7.2.1 has been received by NWOS; and

7.2.2 cleared by the PS and any payment due in respect of that Prescription received by NWOS from the PS, at which time such Fee will again become due and payable under this clause 7.

7.3 Other than where any sum is due to NWOS under this Contract, time is not of the essence for payment.

7.4 NWOS is entitled to charge, and the Counterpart will pay, any account surcharge (by address) from time to time.

## **8. Risk, Title and Possession**

8.1 Title to the Goods will not pass to the Counterpart at any time.

8.2 Notwithstanding clause 8.1 and subject to these Conditions:

8.2.1 the Counterpart will be entitled to take possession of the Goods on delivery; and

8.2.2 risk of damage to or loss of the Goods will pass to the Counterpart on delivery or deemed delivery.

8.3 Title to the goods is intended to pass to the Patient on delivery or deemed delivery to the Counterpart.

8.4 Notwithstanding clause 8.3, title is not intended to pass to the Patient when the Counterpart will not or cannot accept delivery of the Goods.

8.5 Until ownership of the Goods has passed to the Patient, the Counterpart must:

8.5.1 hold the Goods on a fiduciary basis as NWOS' bailee;

8.5.2 store the Goods in such a way that they remain readily identifiable as NWOS' property;

8.5.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

8.5.4 maintain the Goods in satisfactory condition insured on NWOS' behalf for their full price against all risks to the reasonable satisfaction of NWOS, and will whenever requested by NWOS produce a copy of the policy of insurance.

8.6 The Counterpart's right to possession of the Goods will terminate immediately if:

8.6.1 the Counterpart has a bankruptcy order made against it or makes an arrangement or composition with its creditors or otherwise takes the benefit of any legislation for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal) or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver, manager, administrator or administrative receiver appointed of its undertaking or any part thereof or a resolution is passed or a petition presented to any court for the winding-up of the Counterpart or for the granting of an administration order in respect of the Counterpart or any proceedings are commenced relating to the insolvency or possible insolvency of the Counterpart; or

8.6.2 the Counterpart suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe or perform any of its obligations or duties under this Contract or any other contract between NWOS and the Counterpart, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Counterpart ceases to trade; or

8.6.3 the Counterpart encumbers or in any way charges (or attempts to charge) any of the Goods.

8.7 The Counterpart grants NWOS, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Counterpart's right to possession has terminated, to recover them.

## **9. Liability**

9.1 Nothing in this Contract shall constitute a sale by sample or by description.

9.2 NWOS shall not be liable to the Counterpart for:

9.2.1 any inaccuracies in the provisions of any order or Prescription supplied to NWOS; and

9.2.2 any statement made by the Counterpart to the Patient

9.3 The Counterpart undertakes only to supply the Goods to the Patient (or its agent or representative).

- 9.4 NWOS excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in this Contract) or implied (including, without limitation, in respect of the quality or fitness for any particular purpose, including where NWOS has been informed of that particular purpose) of the Goods or any Free Goods, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Counterpart.
- 9.5 Notwithstanding clause 9.4, NWOS does not exclude its liability (if any) to the Counterpart:
- 9.5.1 for breach of NWOS' obligations arising under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;
- 9.5.2 for personal injury or death resulting from NWOS' negligence;
- 9.5.3 under section 2(3) Consumer Protection Act 1987;
- 9.5.4 for any matter which it would be illegal for NWOS to exclude or to attempt to exclude its liability; or
- 9.5.5 for fraud.
- 9.6 Subject to clauses 3.8, 5.1 and 9.5, NWOS' aggregate liability under this Contract (whether in contract, tort (including negligence), misrepresentation, breach of statutory duty, restitution or otherwise) for any direct loss howsoever caused shall be limited to the Drug Tariff value of the Goods (or part of the Goods) delivered or deemed delivered under this Contract.
- 9.7 Nothing in these conditions acts to exclude or affect any statutory rights the Patient may have against NWOS or the Counterpart.

## 10. Consequential/Indirect Loss

- 10.1 NWOS shall not be liable for any direct loss of profits or business or any indirect or consequential loss (which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), costs, expenses or other claims howsoever caused which arise out of or in connection with NWOS' performance or contemplated performance of this Contract.

## 11. Indemnity

- 11.1 The Counterpart undertakes to indemnify NWOS against any loss, damage, costs and expenses arising directly or indirectly from any inaccuracies in the provisions of any order or Prescription and any statement given by the Counterpart to the Patient regarding the Goods or any Free Goods, including, without limitation, any professional advice or guidance or instructions as to the use, storage, maintenance and handling of the Goods or Free Goods.

## 12. Confidentiality and Data

**"Personal Data"** means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.

**"Business Data"** means any data or information relating to Counterpart's business including, but not limited to, details of these conditions, Counterpart's spend, products purchased from NWOS or data collected on Counterpart's EpoS and/or PMR systems (to the extent applicable) and provided to NWOS.

- 12.1 All information disclosed to Counterpart in connection with the Contract and any other contracts between the Counterpart and NWOS must be treated as confidential and the Counterpart will not disclose any such information to any third party for any reason unless required to do so by law.
- 12.2 NWOS will never sell Counterpart's Personal Data to a third party.
- 12.3 Notwithstanding clause 12(2) above, in respect of Business Data NWOS will be entitled to use, share or sell to third parties or publish any such data for its legitimate interests in such a way that individuals cannot be identified from the data.
- 12.4 NWOS will only process Counterpart's Personal Data in accordance with applicable privacy laws and the Contract and only to the extent required by the Contract or for us to pursue our legitimate interests where NWOS believes your fundamental rights or freedoms would not be overridden.
- 12.5 If Counterpart is a member of a buying group, NWOS will communicate its data to the buying group to which it belongs to enable it to act on Counterpart's behalf according to the terms of its arrangements with the buying group.

- 12.6 NWOS may use Counterpart's information to let it know about other products and services offered by NWOS and other companies, in the Alliance Boots Group, which NWOS thinks, will be of interest to Counterpart.
- 12.7 If Counterpart wishes to amend or update its personal information or wishes NWOS to delete information about it please notify NWOS at [Privacy@alliance-healthcare.co.uk](mailto:Privacy@alliance-healthcare.co.uk).
- 12.8 Any questions about this clause or how NWOS will process Counterpart's Personal Data please contact [Privacy@alliance-healthcare.co.uk](mailto:Privacy@alliance-healthcare.co.uk) or for more information on Privacy at Alliance Healthcare (Distribution) Limited or OTC Direct Limited please visit <http://www.alliance-healthcare.co.uk/privacy-and-security>

### **13. Assignment/Sub-Contracting**

- 13.1 Unless otherwise agreed by NWOS in writing, the Counterpart may not assign the benefit or delegate the burden of this Contract or any part of it to any person.
- 13.2 NWOS may transfer or sub-contract any of its rights and obligations under this Contract.

### **14. Relationship Between the Parties**

- 14.1 Nothing contained in these Conditions, and no action taken by the parties pursuant to this Contract, will be deemed to constitute a relationship between the parties of Counterpartship, joint venture, principal and agent or employer or employee and it is intended that the Commercial Counterparts (Council Directive) Regulations 1993 (SI 1993/3053) (as may be amended from time to time) shall not apply to this Contract.
- 14.2 Neither party has, nor may it represent that it has, any authority to act or make commitments on the other party's behalf.

### **15. Force Majeure**

- 15.1 NWOS will not be deemed to be in breach of this Contract or otherwise shall not be liable to the Counterpart for any failure or delay or for the consequences of any failure or delay in performance of this Contract if it is due to any event beyond its reasonable control including, without limitation, obtaining or delivering the Goods through the normal means of delivery, breakdown or power failure of plant or machinery, acts of God, war, industrial disputes, protests, fire, flood, storm, tempest, explosion, an act of terrorism, national emergencies, compliance with any law, order, rule, regulation, directive or requirement of any government, or government agency or authority.

### **16. Counterpart's Warranties**

- 16.1 The Counterpart warrants that it will at all times maintain the integrity of any Goods or Free Goods supplied to it by NWOS for the transfer of possession to the Patient and will transfer such Goods in at least as good a condition as those Goods were delivered or deemed delivered to the Counterpart.
- 16.2 The Counterpart warrants that it is a registered pharmacy or doctor's practice and all pharmacists and doctors in those businesses (as the case may be) are fully qualified and currently valid and registered member of all applicable bodies regulating their possessions.
- 16.3 The Counterpart warrants that it will comply with all applicable laws and regulations (including, without limitation, those regarding equivalents to UK and/or EU customs and excise, marketing authorisations or product licences, manufacturer's licences, wholesale dealer's licences and Controlled Drugs as defined by the Misuse of Drugs Act 1971 and the Misuse of Drugs Regulations 2001) regarding the exportation and distribution of any Goods to any territory in which the Patient resides.
- 16.4 The Counterpart warrants that it will prominently display to Patients in its premises any poster or notification supplied by NWOS which includes words to the effect that any Goods supplied by NWOS under these Conditions have not been supplied by the Counterpart.

### **17. Termination**

- 17.1 If any of the events or conditions listed in clauses 8.6.1 to 8.6.3 occur NWOS may (at its discretion) on written notice and without prejudice to any other right or claim it may have, suspend delivery of any ordered Goods until the Counterpart remedies its default and/or (subsequently, as the case may be) terminate this Contract.

### **18. General**

- 18.1 Subject to any variation permitted under these Conditions, these Conditions apply to every Contract between NWOS and the Counterpart and contain all the terms which the parties have agreed in relation to

the subject matter of such Contracts and supersede any prior written or oral agreements, representations or understandings between the parties (including, without limitation, any terms and conditions in any order, letter, specification, communication or other document supplied by the Counterpart to NWOS). To the extent there are any inconsistencies between any variation referred to in clause 18.2 and these Conditions, that variation shall prevail.

- 18.2 These Conditions (including the value of any agreed Fee) may only be varied or amended in writing.
- 18.3 No failure or delay by NWOS to exercise any right will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right.
- 18.4 Subject as expressly provided in this Contract, the rights, powers and remedies provided in this Contract are cumulative and not exclusive of any rights, powers or remedies provided by law.
- 18.5 Any waiver of a breach of, or default under, any provision of this Contract by NWOS will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of this Contract.
- 18.6 The parties to this Contract do not intend any terms of these Conditions to be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
- 18.7 If in any clause or part of this Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from this Contract and will be ineffective without, as far as is possible, modifying any other clause or part of this Contract and this will not affect any other provisions of this Contract which will remain in full force and effect.

## **19. Applicable law**

- 19.1 The formation, existence, construction, performance, validity and all aspects whatsoever of this Contract will be governed by the law of England and the parties submit to the exclusive jurisdiction of the courts of England.

North West Ostomy Supplies, a trading name of OTC Direct Limited (a company registered in England and Wales with registered no. 03118885) has its registered office at 43 Cox Lane, Chessington, Surrey KT9 1SN. VAT registration number 386334767.