

**EMERGENT®****Narcan® Nasal Spray****Public Interest Price Terms and Conditions (the "Agreement")**

The entity specified below ("Customer") acknowledges and agrees that NARCAN® Nasal Spray (Naloxone HCl) 4mg (the "Product") is made available to Customer by Emergent Devices Inc. ("Emergent") at the current discounted Public Interest Price and is conditioned upon Customer's representation and warranty to Emergent as follows:

1. Customer is a "Qualified Purchaser" of the Product at the Public Interest Price as follows:  
Purchaser is:
  - a First Responder, State or Local Government Agency, School, or Community-based organization;
  - a government funded organization;
  - an entity that has received a grant for the purchase of the Product; or
  - an entity that is purchasing the Product on behalf of (i) a state or local government entity, or (ii) a local community harm reduction group as part of a community naloxone distribution program.

Notwithstanding the foregoing, Customer's purchase of the Product is subject to Emergent's final approval in its sole discretion.
2. Customer shall purchase, receive and use the Product in accordance with all applicable laws, rules and regulations. The Product may only be used by Customer, a person authorized by Customer to receive and/or administer the Product ("Qualified Recipient") or a Qualified Purchaser authorized by Customer, and may not be submitted for reimbursement of any type, including, without limitation, private pay, commercial, government authority, agency or otherwise.
3. Except as provided in paragraphs 12 and 13 below, the Product is not returnable or refundable. Minimum order quantity is 12 units (1 case).
4. The pricing for the Product is in effect for the Term (as defined below). In the event Customer notifies Emergent that Customer is being offered a Naloxone nasal spray comparable product at a lower price, Emergent may, in its sole discretion, match such lower price after receiving written evidence of such lower price offer. Such pricing may be adjusted by Emergent upon thirty (30) days written notice to Customer.
5. The pricing for the Product does not include applicable state or federal sales or use taxes and Customer shall pay all applicable taxes. Applicable taxes are included on each invoice as separate line items. In the event Customer is a sales tax exempt entity or a specific purchase is sales tax exempt, Customer shall provide a valid sales tax exemption certificate to Emergent as provided to Customer by the state or federal taxing authority. In the event Emergent determines Customer or the specific purchase is not sales tax exempt, then Customer shall pay all applicable taxes as detailed in the invoice.
6. Emergent's invoice will be sent to Customer at Customer's billing address or designated email address. Unless otherwise specified on the invoice, all invoices for Product supplied are due and payable in full within thirty (30) days from the date of invoice. Customer agrees to review invoices upon receipt and to notify Emergent in writing of any disputes within twenty (20) days of receipt of invoice. If such written notice is not received by Emergent, the invoice is deemed to be final and payable in full.
7. Emergent has the right and is authorized to request information from Customer and third parties to confirm Customer's Qualified Purchaser status and/or credit status prior to accepting an order, and Customer shall fully cooperate with any such request.
8. Emergent reserves the right to audit Customer to ensure the Product is used as set forth in the Product documentation, in this Agreement, under applicable law, and as otherwise required by Emergent.
9. All orders are subject to acceptance by Emergent. Emergent may fulfill or refuse or otherwise limit orders at its sole discretion. Emergent shall use reasonable efforts to supply Customer with Product; provided, however, Emergent shall have no liability for failure to supply Product.
10. Emergent reserves the right to change or update the carton packaging of Product in Emergent's sole discretion. Emergent represents the contents within the packaging remains unchanged and Customer agrees to accept delivery of the Product (NDC: 6954762702). Emergent will make reasonable efforts to notify the Customer when an alternate carton packaging may be shipped to fulfill Customer's order.
11. Customer represents that all information provided by Customer as a Qualified Purchaser is true, complete and accurate.
12. Emergent warrants that at the time of delivery, the Product (a) is free from defects in design, material, or workmanship, (b) is not adulterated or misbranded within the meaning of the U.S. Food, Drug and Cosmetic Act ("FDA"), and (c) conforms to applicable laws, rules, and regulations of the FDA. In the event the Product delivered to Customer fails to conform to the warranties in this paragraph, Customer may reject such Product by giving written notice to Emergent within seventy-two (72) hours after delivery. If Customer fails to reject the Product in accordance with this paragraph within the seventy-two (72) hour period, Customer is deemed to have accepted the Product. EMERGENT MAKES NO OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE PRODUCT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.
13. Emergent's sole obligation under any warranty shall be to replace or refund Products not conforming to the above warranty. NEITHER CUSTOMER NOR EMERGENT SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OR LOSSES, INCLUDING LOST PROFITS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF.
14. Customer represents it, and its Qualified Recipients, have reviewed the instructions for use, storage, handling, and other information with respect to the Product in accordance with the FDA approved Drug Facts Label and Customer and such Qualified Recipients will comply with such instructions and information. Customer shall be responsible for the negligent acts and omissions of its Qualified Recipients, employees, agents, and representatives.
15. The term of this Agreement commences on the date this Agreement is executed by Customer and continues until terminated by either party

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upon thirty (30) days prior written notice to the other party ("Term"). The expiration or termination of this Agreement shall not release Customer from fulfilling any obligations it may incur prior to any such termination, nor prejudice any rights or remedies Emergent may have at law or in equity.

16. During the Term and for a period of one (1) year thereafter, Customer shall hold the terms of this Agreement and information Emergent discloses to Customer in confidence and shall not use such information or disclose it to any third party without the written consent of Emergent. Emergent's consent shall not be unreasonably withheld or delayed where disclosure is required to comply with public disclosure/reporting requirements.
17. This Agreement and any documentation provided by Customer or requested by Emergent (including but not limited to a valid sales tax exemption certificate), constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof. No changes to this Agreement will be binding upon Emergent unless made in writing and signed by Emergent. In the event of any conflict between this Agreement and any other agreement or purchase order of Customer, this Agreement shall govern. Emergent will retain valid sales tax exemption certificates for the time prescribed on the certificate and may request renewals when required.
18. Failure of Emergent to enforce any right without an express written waiver of such right does not waive such right. If a court of competent jurisdiction finds that any provision of this Agreement is invalid or unenforceable, the other provisions of this Agreement will remain in full force and effect.
19. Emergent shall not be liable for delay or failure of performance occasioned by causes beyond its control, including, but not limited to, acts of God, civil unrest, acts of terrorism, declared or undeclared wars, fires, floods, unusually severe weather, earthquakes, strike, lock-out, or other industrial or transportation disturbance, governmental law, regulation or ordinance, failure of public utilities, or unavailability, shortage or interruption of ingredients, raw materials, packaging and/or other materials.
20. Customer may not assign any rights, interests or obligation hereunder without the prior written consent of Emergent. Emergent and Customer are at all times independent contractors and nothing in this Agreement shall be interpreted or construed to create an association, joint venture or partnership between the parties or to impose any partnership obligation or liability upon either party.

ACKNOWLEDGED AND AGREED:

Lexington-Fayette Urban County Government

Entity/Organization Full Legal Name

*Linda Gorton*

Electronic Signature of Authorized Representative

12/7/23

Date

Linda Gorton

Name of Authorized Representative

Mayor

Title of Authorized Representative

200 East Main Street, Lexington, KY 40507

Entity/Organization Address