

Public Interest Terms and Conditions of Sale

The following provisions are the standard Public Interest Terms and Conditions of Sale (the “*Agreement*”) of the legal entity listed as the buyer on the applicable Order (“*Customer*”), and Emergent Devices Inc. (“*Emergent*”) and shall govern and control each instance whereby Customer obtains or otherwise acquires from Emergent items or products (“*Goods*”), whether pursuant to issuance of a written purchase order to Emergent, an order for purchase made by a credit card transaction, an online order or by any other means (each an “*Order*”). Customer agrees to purchase, and Emergent agrees to deliver to Customer, the Goods identified in the Order, subject to the terms and conditions herein. By placing an Order, Customer agrees to be bound by the terms of this Agreement.

- 1. Qualified Purchaser.** Customer is a “*Qualified Purchaser*” of the Goods, Customer is as follows:
 - 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 Goods; or
 - an entity that is purchasing the Goods 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.
- 2. Acceptance.** 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 the Goods; provided, however, Emergent shall have no liability for failure to supply the Goods.
- 3. Sales and Use.** Customer shall purchase, receive and use the Goods in accordance with all applicable laws, rules and regulations. The Goods 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. Unless otherwise agreed to in writing by the parties, Customer shall not distribute, sell or otherwise transfer the Goods in exchange for any direct or indirect remuneration, to any party other than an end user; provided that, the parties acknowledge and agree that Customer may further distribute the Goods at no cost to other governmental and non-profit community organizations who will subsequently distribute the product at no charge to end users, and such distribution shall not be a violation of this paragraph 3. In any event, the Goods may not be resold or submitted for reimbursement of any type, including, without limitation, private pay, commercial, government authority, agency or otherwise.
- 4. Returns.** Except as provided in paragraphs 13 and 14 below, the Goods are not returnable or refundable.
- 5. Pricing.** Customer will pay Emergent the applicable amounts or unit prices that are expressly listed in each Customer Order. 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 the price. Such pricing may be adjusted by Emergent without notice to Customer. The Goods shall be purchased in accordance with the minimum order quantities for the specific Good, as required by Emergent.
- 6. Payment Terms.** 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 Goods supplied are due and payable in full within thirty (30) days from the date of invoice. Customer shall notify Emergent in writing of any dispute within twenty (20) days of receipt of invoice. If written notice is not received by Emergent, the invoice is deemed to be final and payable in full. In the event of failure to pay any undisputed invoice amounts when due, Customer shall be responsible for all costs of collection including reasonable attorneys’ fees.
- 7. Taxes.** The pricing for the Goods 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. Emergent will retain valid sales tax exemption certificates. for the time prescribed on the certificate and may request renewals when required. 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.
- 8. Information Requests.** Emergent reserves the right to audit Customer to ensure the Goods are used as set forth in the Goods documentation, in this Agreement, under applicable law, and as otherwise required by Emergent. Customer represents that all information provided by Customer as a Qualified Purchaser is true, complete and accurate. 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 or fulfilling an Order, and Customer shall fully cooperate with any such request.
- 9. Delivery.** Delivery of ordered Goods hereunder shall be Incoterms 2020 DAP Customer’s designated facility. All title and risk of loss of the Goods shall transfer to Customer upon delivery to Customer’s designated facility.
- 10. Packaging.** Emergent reserves the right to change or update the carton packaging of Goods in Emergent’s sole discretion. Emergent represents the contents within the packaging remains unchanged and Customer agrees to accept delivery of the Goods. Emergent will make reasonable efforts to notify the Customer when an alternate carton packaging may be shipped to fulfill Customer’s Order. Customer further acknowledges that the Goods do not contain batteries and batteries need to be purchased separately by Customer. Customer expressly acknowledges and agrees that Emergent shall not be responsible for any liabilities arising from the installation or maintenance of the Goods.
- 11. Trademark.** Customer recognizes that there is a strong public interest in providing access to the Goods in workplaces and other public venues to treat opioid emergencies. Emergent further recognizes that the trademarks of Supplier or its affiliates, including the NARCAN® word mark, the Star design, the Half-Star design, and the distinctive pink color used in association with NARCAN® branded products, symbolize the goodwill that consumers associate with Emergent and its high-quality products. Given the strong public interest in avoiding consumer confusion, especially when marks are used for naloxone and other pharmaceutical products, Customer (a) shall not remove or permit others to remove the NARCAN® mark, or other trademarks of Emergent, from the dispenser and (b) shall not use, or assist others in using, the dispenser for the purpose of dispensing any products other than genuine NARCAN® branded products.

12. Customer Warranties. Customer represents it has reviewed the instructions for use, storage, handling, and other information with respect to the Goods in accordance with the FDA approved Drug Facts Label and Customer will comply with such instructions and information. Customer shall be responsible for the negligent acts and omissions of its affiliates and its and their employees, agents, and representatives.
13. Emergent Warranties. Emergent warrants that at the time of delivery, the Goods shall conform to the specifications of the applicable Goods. Emergent further warrants that at the time of delivery the Goods (a) are free from defects in design, material, or workmanship, (b) are 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 Goods delivered to Customer fail to conform to the warranties in this paragraph, Customer may reject such non-conforming Goods by giving written notice to Emergent within seventy-two (72) hours after delivery. If Customer fails to reject the Goods in accordance with this paragraph within the seventy-two (72) hour period, Customer is deemed to have accepted the Goods. EMERGENT MAKES NO OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE GOODS, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.
14. Limitation of Liability. Emergent’s sole obligation under any warranty shall be to replace or refund Goods not conforming to the above warranty. EMERGENT EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY RELATING TO CUSTOMER OR ITS QUALIFIED REPRESENTATIVES PLACING ANY NALOXONE PRODUCT IN EMERGENT GOODS. CUSTOMER HEREBY ASSUMES ALL RISKS RELATING TO PLACING ANY NALOXONE PRODUCT IN EMERGENT GOODS. 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. IN NO EVENT SHALL EMERGENT’S LIABILITY EXCEED THE AMOUNT ACTUALLY PAID BY THE CUSTOMER FOR THE ORDER GIVING RISE TO THE CLAIM.
15. Indemnification. **To the extent allowable by law,** Customer shall indemnify and hold harmless Emergent from and against any third party claims, actions, damages, liabilities and losses, including reasonable attorneys’ fees, which may directly or indirectly result from or relate to (i) death, bodily injury or property damage from the use of the Goods, (ii) any negligent act or omission of Customer or its Qualified Recipients, employees, agents and representatives, or (iii) a breach of any representation, warranty, covenant, or obligation of Customer hereunder. **This Paragraph shall not be deemed a waiver of sovereign immunity or any other third-party defense.** Emergent shall indemnify and hold harmless Customer from and against any third party claims, actions, damages, liabilities and losses, including reasonable attorneys’ fees, which may directly or indirectly result from or relate to (i) any grossly negligent act or omission of Emergent; or (ii) a breach of any representation, warranty, covenant, or obligation of Emergent hereunder. This Section shall survive the termination or expiration of this Agreement.
16. Term. The term of this Agreement commences on the date this Agreement is executed by Customer and continues until terminated by either party 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.
17. Confidentiality. Customer acknowledges that Customer and its employees, agents and subcontractors may have access to or create Proprietary Information as a result of an Order. Customer shall protect such Proprietary Information from disclosure to a third-party using measures at least as stringent as those Customer uses to protect its own proprietary information, but in no event less than a reasonable standard of care. Customer shall not use Proprietary Information or disclose it to any third party without the written consent of Emergent. No information furnished by Customer to Emergent shall be considered confidential or proprietary information of Customer unless specifically agreed to in writing by Emergent. Nothing in these Agreement purports to assign, transfer or license any Proprietary Information to Customer. “**Proprietary Information**” shall mean any and all non-public and proprietary information of Emergent, in either written or oral form, including, without limitation: (a) any business information or plans, including customer identity information, manufacturing, operating and cost information, financial data, pricing information marketing data, and (b) any technical information, including specifications and requirements provided by Emergent in connection with fulfillment of an Order.
18. Adverse Event. Customer agrees to promptly notify Emergent in writing if it becomes aware of any Adverse Event (“*AE*”) or Product Quality Complaint (“*PQC*”) related to any Goods. Notification should occur as soon as possible and no later than twenty-four (24) hours after Customer first learns of such information. Customer will provide all available details, including when and how the information was received. All such information and notices should be sent to medicalinformation@ebsi.com or via phone at 1-888-483-9053.
19. Publicity. Except for any announcement intended solely for internal distribution or any disclosure required by legal, accounting, or regulatory requirements beyond either party’s reasonable control, all media releases, public announcements, social media posts, or public disclosures (including promotional or marketing material) by a party or a party’s employees or agents concerning these Agreement or its subject matter, or including the name, trade name, trademark, or symbol of the other party, are prohibited without the other party’s prior written consent.
20. Governing Law. This Agreement and all communications, disputes and performance hereunder shall be governed by the laws of the State of Delaware, without reference to its choice of law provisions. Prior to initiating any arbitration with respect to any dispute arising hereunder, the parties will endeavor to amicably resolve such dispute. Any dispute arising hereunder which the parties are not able to so resolve is subject to final and binding arbitration in Wilmington, Delaware before the American Arbitration Association under its then applicable rules for commercial disputes. **THE PARTIES WAIVE THEIR RIGHT TO HAVE ANY DISPUTE RESOLVED IN A COURT OF LAW BY A JUDGE OR JURY.**
21. Miscellaneous. 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. If any provision hereof should be held invalid, illegal or unenforceable in any respect in any jurisdiction, then, to the fullest extent permitted by law, all other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to carry out the intentions of the parties hereto as nearly as may be possible. Notwithstanding the termination, completion, or expiry of the Order, all representations and warranties set out herein, all obligations relating to confidentiality, intellectual property, limitation of liability and indemnification, and any other provisions which by their nature are intended to survive, shall survive and continue to bind the parties. No delay by or omission of

either Party in exercising any right, power, privilege, or remedy shall impair such right, power, privilege, or remedy or be construed as a waiver thereof.

22. Entire Agreement and Amendments. 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. Agreement different from, or in addition to, this Agreement, whether contained in any order acknowledgment, purchase order, or otherwise, will not be binding on Emergent and are void. Emergent hereby expressly rejects such terms, unless otherwise agreed upon in writing. In the event of any conflict between this Agreement and any other agreement or purchase order of Customer, this Agreement shall govern. No changes to this Agreement will be binding upon Emergent unless made in writing and signed by Emergent.

By signing below Customer represents and warrants that he/she is duly authorized to execute this Agreement and that this Agreement constitutes a valid and legally binding agreement enforceable in accordance with its terms.

ACKNOWLEDGED AND AGREED:

Entity/Organization Full Legal Name

Electronic Signature of Authorized Representative

Name of Authorized Representative

Title of Authorized Representative

Entity/Organization Address

Date