

## Terms and Conditions of Sale of Dermazone Solutions, Inc.

- 1. Acceptance of Terms and Conditions of Sale.** By placing an order with DERMAZONE Solutions, Inc. ("DERMAZONE"), CUSTOMER ("CUSTOMER") agrees to be bound by these Terms and Conditions of Sale ("Terms and Conditions"). These Terms and Conditions supersede any other terms and conditions proposed by CUSTOMER as well as any other prior or contemporaneous oral or written agreement, communication or proposal regarding the subject matter hereof. DERMAZONE and CUSTOMER are sometimes hereinafter referred to individually as a "Party" and jointly as "the Parties."
- 2. Order Confirmation.** All orders by CUSTOMER shall be in the form of a Purchase Order approved and confirmed by DERMAZONE prior to manufacture. In no event shall any term or condition specified on a Purchase Order (a "Modifying Term") have the effect of amending or modifying these Terms and Conditions, it being understood that DERMAZONE'S approval and confirmation of a Purchase Order shall not be deemed approval or acceptance of any Modifying Term. CUSTOMER shall be responsible for all shipping costs of products listed on the Purchase Order ("Products"), including without limitation insurance, taxes and duties. Said shipping costs are F.O.B. the applicable manufacturing facility, with risk of loss passing to CUSTOMER upon DERMAZONE'S delivery of the Products to a common carrier. Shipping costs are not included in DERMAZONE'S invoiced price unless expressly stated. If CUSTOMER does not designate a carrier, DERMAZONE may arrange payment for shipping and insurance with any carrier, but such costs are the sole responsibility of CUSTOMER. Delivery times quoted are estimates only and DERMAZONE shall not be liable for delays in delivery.
- 3. Purchase Orders Binding.** Purchase Orders confirmed by DERMAZONE are binding upon CUSTOMER, subject to adjustment by DERMAZONE at the time of invoice as provided in paragraph 4 below. In the event that CUSTOMER cancels an order *prior to* composition of the relevant Product by DERMAZONE, CUSTOMER forfeits any deposit and shall pay DERMAZONE for its out-of-pocket costs related to the acquisition or use of any raw materials, packaging, labels and other materials purchased and/or used by DERMAZONE in working to fulfill the cancelled order. If CUSTOMER cancels an order *after* composition of the relevant Product but before final packaging, CUSTOMER shall be responsible for paying DERMAZONE Eighty-Five Percent (85%) of the confirmed price for the cancelled order. If CUSTOMER cancels an order after packaging of the relevant Product, CUSTOMER shall be responsible for paying DERMAZONE One Hundred Percent (100%) of the confirmed price for the cancelled order. In all cases of cancellation, if DERMAZONE is required by law to dispose of any Product, CUSTOMER shall be solely responsible for paying DERMAZONE the full cost of such disposal, together with an administration fee equal to fifteen percent (15%) of the cost of disposal. Products are not returnable to DERMAZONE except as provided in paragraph 5 below. Without in any way limiting DERMAZONE'S right and remedies, and in DERMAZONE'S sole discretion, if CUSTOMER has cancelled orders, CUSTOMER may be required by DERMAZONE to pay an increased deposit on future purchase orders.
- 4. Invoices.** DERMAZONE will issue an invoice to CUSTOMER immediately upon shipment leaving our warehouse (or other designated point of shipment). Invoice and shipping of +/- 10% of the quantities specified on any Purchase Order shall be considered fulfillment of that Purchase Order. Each invoice shall be binding upon CUSTOMER, shall constitute an account stated and, unless otherwise agreed in writing, shall be paid in full prior to shipping. Invoices shall not be subject to any objection whatsoever except as provided in paragraph 10 below.
- 5. Price Increases for Manufacturing Materials.** If the cost for any materials required to manufacture any Product increases by more than five percent (5%) between the date of DERMAZONE'S confirmation and the date on which such materials are purchased for the manufacture of such Products, CUSTOMER shall be responsible for the full amount of such increase, which shall be due and payable by CUSTOMER on the final invoice rendered by DERMAZONE for such Products.

6. **Change Orders.** If CUSTOMER desires to change any term or condition of a confirmed Purchase Order, or requests a production or delivery date prior to or beyond the dates scheduled by DERMAZONE and confirmed by DERMAZONE to CUSTOMER, or engages in any act or omission, whether or not intentional, that may affect production or delivery of Products, provided that such changes are not caused by any act or omission of DERMAZONE, CUSTOMER shall be subject to the following "Change Order" provisions:

- a. DERMAZONE may, at its sole option, charge a "Change Order Fee" of Five Percent (5%) of the value of the Purchase Order; and
- b. If the Change Order occurs within forty-five (45) days of production of the order, then in addition to the Change Order Fee, CUSTOMER shall pay:
  - i. An additional fee of five percent (5%) of the Purchase Order on Purchase Orders of up to \$25,000.00;
  - ii. An additional fee of six percent (6%) of the Purchase Order on Purchase Orders from \$25,001.00 to \$50,000.00;
  - iii. An additional fee of seven percent (7%) of the Purchase Order on Purchase Orders from \$50,001.00 to \$75,000.00; or
  - iv. An additional fee of eight percent (8%) of the Purchase Order on Purchase Orders over \$75,000.00.
- c. Each subsequent event necessitating a Change Order may, at DERMAZONE's sole option, incur an additional Change Order Fee.

7. **Delinquent Payments.** Any invoice that is not paid by the due date shall be deemed to be delinquent and subject to the following:

- a. DERMAZONE may, at its sole option, assess a delinquency charge of Five Percent (5%) of the invoiced amount (the "Delinquency Charges") when an invoice is past due for twenty (20) or more days;
- b. CUSTOMER shall be responsible for all costs incurred by DERMAZONE from the date on which payment of the invoice is due until such invoice is paid in full and CUSTOMER's account with DERMAZONE is current. Such costs include, but are not limited to, warehousing and other costs related to holding Products and any necessary costs of disposal of Products ("Costs");
- c. In addition to the amounts due on delinquent invoices, CUSTOMER shall pay DERMAZONE on demand all Delinquency Charges, Costs, any applicable Inventory Charges (as defined in paragraph 8 below), and all Collection Charges (as defined in paragraph 9 below) assessed by DERMAZONE; and
- d. DERMAZONE MAY, IN ITS SOLE DISCRETION, SUSPEND THE PRODUCTION OR SHIPPING OF ANY OUTSTANDING ORDER PLACED BY CUSTOMER UNTIL CUSTOMER HAS PAID IN FULL ALL AMOUNTS DUE ON DELINQUENT INVOICES, DELINQUENCY CHARGES, ALL COSTS, ANY APPLICABLE INVENTORY CHARGES, AND ALL COLLECTION CHARGES ASSESSED BY DERMAZONE. THE FOREGOING SHALL APPLY EVEN IF CUSTOMER HAS PAID DERMAZONE A DEPOSIT ON SUCH OUTSTANDING ORDER.

8. **Inventory Charges.** In addition to the charges for which CUSTOMER may be responsible under paragraphs 5 and 7 above, CUSTOMER shall be responsible for the full cost of any purchased inventory for the manufacture of Products that becomes obsolete, overbought, underused or expired by reason of any Change Order or delinquency in payment (“Inventory Charges”).
9. **Collection Charges.** CUSTOMER shall pay all of DERMAZONE’s costs and expenses (including but not limited to legal fees and expenses, and court costs) related to or arising out of the collection of all delinquent invoices, Delinquency Charges, Costs and Inventory Charges (“Collection Charges”).
10. **Rejection of Shipments.**
- (a) CUSTOMER shall have ten (10) business days from the date of receipt of a Product to inspect and reject all or part of any shipment on the grounds it does not comply with applicable specifications. If DERMAZONE accepts such rejection, such rejected Product shall be returned to DERMAZONE at DERMAZONE’s sole expense and replaced by DERMAZONE as soon as reasonably possible. Upon receipt of the rejected product from CUSTOMER, DERMAZONE shall issue a credit to CUSTOMER for the full value thereof.
- (b) If DERMAZONE does not accept CUSTOMER’s rejection, the Parties shall seek the opinion of an independent laboratory reasonably acceptable to both Parties, which opinion shall be final and binding with respect to the determination of the existence or nonexistence of any patent or latent defects. The expenses for such determination shall be borne by the Party deemed by the independent laboratory to be incorrect with respect to such matter, or, if the independent laboratory cannot identify the Party in error, then the Parties shall share the expenses equally.
12. **Recall of Products.** To the extent permitted or required by law, any decision to recall, withdraw or cease distribution of any Product as a result of a violation of applicable law or because the Product presents a possible safety risk shall be made by CUSTOMER after consultation with DERMAZONE. Any such recall or market withdrawal shall be managed, executed and paid for by CUSTOMER, provided, however, that if recall or market withdrawal of Products is the direct result of a negligent act or omission of DERMAZONE, then DERMAZONE shall pay CUSTOMER its direct out-of-pocket costs of recall and withdrawal.
13. **Limited Warranty.** DERMAZONE WARRANTS AND REPRESENTS THAT ALL PRODUCTS SHALL BE FREE FROM LATENT DEFECTS DUE TO MANUFACTURING FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF INVOICE ISSUED BY DERMAZONE. THE FOREGOING WARRANTY EXTENDS ONLY TO CUSTOMER AND DERMAZONE DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DERMAZONE (a) MAKES NO WARRANTY WHATSOEVER AND EXTENDS NO WARRANTY OF ANY KIND REGARDING PRODUCTS, WHETHER EXPRESS OR IMPLIED, (b) EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; AND (c) ASSUMES NO RESPONSIBILITY WHATSOEVER WITH RESPECT TO THE USE, SALE OR OTHER DISPOSITION BY CUSTOMER, ITS VENDEES OR OTHER TRANSFEREES OF PRODUCTS.
14. **What Is Not Covered.** DERMAZONE’S WARRANTY FROM LATENT DEFECTS DUE TO MANUFACTURING FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF INVOICE ISSUED BY DERMAZONE DOES NOT COVER: (a) ANY PRODUCT WHICH, IN DERMAZONE’S SOLE JUDGMENT, HAS BEEN SUBJECTED TO ABUSE, ACCIDENT, ALTERATION, MODIFICATION, TAMPERING, NEGLIGENCE, MISUSE, OR LACK OF PROPER CARE IN HANDLING AND STORAGE; (b) SHIPPING COSTS; OR (c) DAMAGE OCCURRING IN SHIPMENT OR DUE TO ANY CAUSE OUTSIDE OF DERMAZONE’S REASONABLE CONTROL.

15. **Limitations on Liability.** IN NO EVENT SHALL DERMAZONE BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR SPECIAL, DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST BUSINESS OPPORTUNITY OR SIMILAR DAMAGES WHICH MAY ARISE, IN WHOLE OR IN PART, FROM OR IN CONNECTION WITH ANY PRODUCT OR THE NON-DELIVERY OF ANY PRODUCT, EVEN IF DERMAZONE HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN NO EVENT SHALL ANY REMEDY OR RECOVERY BY CUSTOMER EXCEED THE COST OF THE PRODUCTS WHICH GAVE RISE TO SUCH DAMAGES.

16. **Enforceability/Severability.** If any provision of these Terms and Conditions shall be held void, voidable, invalid or inoperative (a "Severed Provision"), no other provision hereof shall be affected as a result, and accordingly, the remaining provisions shall remain in full force and effect as though such Severed Provision had not been contained herein.

17. **Waiver.** No provision of these Terms and Conditions shall be deemed to have been waived by any act or acquiescence on the part of DERMAZONE, it being understood that waiver may only occur by an instrument in writing signed by an authorized officer of DERMAZONE. No waiver of any provision by DERMAZONE shall constitute a waiver of any other provision or of the same provision on another occasion.

18. **Cumulative Remedies.** All rights and remedies of DERMAZONE, whether at law or in equity, shall be cumulative and none of them shall be in limitation of any other right or remedy.

19. **Governing Law.** These Terms and Conditions, all invoices, correspondence and other documents exchanged between DERMAZONE and CUSTOMER, and any dispute or controversy arising out of or related to any of the foregoing and/or the relationship between DERMAZONE and CUSTOMER established herein (collectively, "Claims") shall be governed by and construed, interpreted and resolved in accordance with the laws of the State of Florida without regard to its choice of law provisions; provided, however, that any procedural or substantive Claim conflicting with or falling under the exclusive jurisdiction of United States federal law shall be governed by, and construed, interpreted and resolved in accordance with United States federal law without regard to its choice of law provisions. In addition, CUSTOMER expressly disclaims any applicability of the United Nations Convention International Sale of Goods (CISG). All Claims shall be submitted exclusively to the federal and state courts of competent jurisdiction located in the county in which DERMAZONE has its principal place of business at the time such Claim is filed, and both DERMAZONE and CUSTOMER hereby unconditionally and irrevocably consent and submit to such exclusive jurisdiction and venue, and waive any objection they may now or hereafter have with respect thereto.

20. **Modifications and Amendments.** These Terms and Conditions may not be modified or amended except in a writing signed or otherwise confirmed in writing by DERMAZONE and CUSTOMER; provided, however, that DERMAZONE reserves the right to modify or amend these Terms and Conditions from time to time in DERMAZONE's sole discretion, provided that any such modification or amendment by DERMAZONE shall be binding upon CUSTOMER only for orders placed by CUSTOMER after the Effective Date indicated in the footer of these Standard Terms and Conditions.

21. **Headings.** The paragraph headings in these Terms and Conditions are solely for the convenience of the Parties and have no legal or contractual significance.