



# Terms of Sale

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# Terms of Sale

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## SECURE A DRUG TERMS AND CONDITIONS OF SALE

**1. ENTIRETY.** These Terms and Conditions of Sale and all documents referenced herein (collectively, the “Terms”) are the only terms and conditions which govern the sale of Secure a Drug containers and related products (“Goods”) by Secure a Drug, Inc. (“SaD”) to the Customer (“Customer”) and supersede all other terms and conditions, oral or written, and all other communications between the parties suggesting additional or different terms. These Terms represent the final and complete understanding of the parties with respect to the sale of Goods and may be amended or cancelled only by mutual written agreement. Acceptance is expressly limited to these Terms. Any proposal for additional or different terms or any attempt by Customer to vary these Terms is hereby deemed material and is objected to and rejected. No terms of any document or form submitted by Customer shall be effective to alter or add to these Terms. The earlier of SaD’s commencement of performance or Customer’s receipt of any of the Goods shall constitute acceptance of these Terms.

**2. PRICES.** Prices quoted are in U.S. Dollars and based on the price at the time of quotation and are subject to change without notice. Clerical errors are subject to correction without liability.

**3. TAXES.** Prices do not include any sales, use, excise, privilege, ad valorem, or other taxes, duties, tariffs or assessments now or hereafter imposed or levied (“Taxes”) by or under the authority of any foreign, federal, state, provincial, or local law, rule, or regulation (collectively, “Law”) concerning the Goods or the manufacture or sale thereof. If SaD pays any such Taxes, Customer shall, upon demand, immediately reimburse SaD for such amounts.

**4. TERMS OF PAYMENT.** All payments are due within 30 days from date of invoice. Orders are subject to acceptance in writing by SaD. All payments shall be made without abatement, deduction, discount or setoff. SaD charges a 3 percent convenience fee for any payment made by credit card. Late payments are subject to a service charge of the highest rate permitted under applicable Law. Customer shall be liable for all costs and expenses related to collection of past due amounts, including, without limitation, attorneys’ fees and costs. If, in SaD’s judgment, the financial condition of Customer does not justify continuance on the terms of payment above, SaD may require full or partial payment in advance or otherwise adjust the terms including ceasing to supply Customer.

**5. DELIVERY.** Delivery shall be made to Customer’s facility and title and risk of loss passes to Customer at such time. Delivery/performance dates are estimates only. SaD shall not be liable for any claim, loss, expense, or damage of any kind whatsoever for delays, or loss or damage in transit. Claims for loss or damage shall be made solely against the carrier. SaD may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Customer. Each shipment will constitute a separate sale, and Customer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Customer’s purchase order.

**6. INSPECTION.** Customer shall inspect the Goods upon receipt, and Customer shall immediately notify SaD in writing of any claims that the Goods are different than identified in Customer’s purchase order whereupon SaD shall determine the remedy pursuant to Section 9. Failure to give such written notice upon receipt will constitute irrevocable acceptance by Customer of all Goods.

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**7. CHANGES OR CANCELLATION.** Changes in specifications or designs to any Goods, changes in delivery or performance schedules or reschedules or cancellations of orders are not permitted unless SaD has accepted same in writing, has determined the additional charge to be made, if any, and the same has been paid by the Customer. SaD reserves the right to cancel any purchase orders or releases thereunder, or terminate any agreement relating to purchase of SaD's Goods, upon 10 days' notice to Customer.

**8. RETURNS.** Goods may not be returned without prior written authorization of SaD and compliance with SaD's return policies and procedures then in effect.

**9. LIMITED WARRANTIES.** Unless otherwise provided by SaD in its written warranty, SaD warrants that Goods designed and manufactured by SaD will be free from defects in material and workmanship for a period of six months after shipment. THESE ARE SaD'S ONLY WARRANTIES. SaD DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. If during the warranty period, Customer notifies SaD in writing that the Goods are not in conformity with the warranty and SaD agrees, after SaD's inspection (at its option), then SaD will repair, replace or refund the total amount received by SaD therefor, at its sole option, provided Customer returns such Goods to SaD's for inspection. Any claims not made during the warranty period are deemed waived. SaD's warranty does not attach to Goods or parts not manufactured by SaD. Any contract created between SaD and Customer is subject to the specific conditions that (a) SaD is not obligated to provide insurance or indemnify Customer, and (b) there are no flow-downs from any person or entity including the federal government that become part of the contract. Upon the occurrence of any event described in Section 11(e)(i)-(v) without the prior written consent of SaD, this warranty shall be void.

**10. LIMITATION OF LIABILITY.** SaD SHALL NOT BE LIABLE TO CUSTOMER OR ANY OTHER PERSON OR ENTITY FOR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OR ANY OTHER LOSSES, DAMAGES OR EXPENSES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SaD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL SaD BE LIABLE FOR ANY AMOUNT IN EXCESS OF THE PRICE RECEIVED BY SaD FOR THE GOODS WITH RESPECT TO WHICH SUCH LIABILITY IS CLAIMED.

**11. INDEMNIFICATION.** Customer shall defend, indemnify and hold SaD, its affiliates and their respective officers, directors, members, managers, representatives, agents and employees harmless from and against all claims, suits, demands, losses, liabilities, damages (including injury and death) and expenses (including reasonable attorneys' fees) (collectively, "Losses"), arising out of or relating to: (a) Customer's use, misuse or disposal of Goods or materials; (b) Customer's non-compliance with any Law; (c) breach of these Terms by Customer; and (d) Goods subjected to: (i) improper installation or storage; (ii) accident, damage, abuse or misuse; (iii) abnormal operating conditions or applications; (iv) operating conditions or applications above the rated capacity of the Goods; (v) repairs or modifications made to all or part of the Goods without the prior written consent of SaD; or (vi) a use or application other than or varying in any degree from the specifications and SaD's instructions.

**12. PATENTS.** Provided Customer has made all payments due, SaD shall defend any suit brought against Customer based upon a claim that the Goods infringe any United States patent issued as of the date of SaD's quotation and shall pay any damages and costs finally awarded therein against Customer, provided that SaD is notified promptly in writing of such suit and is given full authority, information and assistance by Customer to defend or settle the suit. Notwithstanding anything to the contrary, SaD will

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have no liability to the extent that the suit is based upon: (i) modifications to any item made by or on behalf of the Customer in a manner that causes the infringement; (ii) use of any item in combination with the Goods that causes the infringement; (iii) the failure of the Customer to use corrections or enhancements to the Goods that are made available by SaD; (iv) Customer's distribution, marketing or use for the benefit of third parties of the Goods; or (v) use not authorized under these Terms. If the Goods or any part thereof are deemed to infringe any such patent, SaD shall, at its expense and sole option either: (a) procure for Customer the right to continue using said Goods or part; (b) replace them with non-infringing Goods or parts; (c) modify them so they become non-infringing; or (d) remove them and refund the purchase price for them depreciated over no more than two years.

**13. CONFIDENTIALITY.** All non-public or proprietary information of SaD, including all IP, quotations and pricing information, is confidential, solely for the use in performing hereunder and may not be disclosed, used or copied unless authorized by SaD in writing.

**14. INTELLECTUAL PROPERTY.** All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights, trademarks, patents and applications therefor, and other information or intellectual property disclosed or otherwise provided to Customer by SaD and all rights therein (collectively, "IP") are and will remain the property of SaD. Customer shall have no claim to, nor ownership interest in, any IP and such information, in whatever form and any copies thereof, shall be promptly returned to SaD upon written request from SaD. Customer acknowledges that no license or rights of any sort are granted to Customer hereunder in respect of any IP, other than the limited right to use the Goods purchased from SaD.

**15. EXPORT COMPLIANCE.** Any items provided by SaD are controlled by the United States Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the United States Government or as otherwise authorized by U.S. Law and regulation.

**16. FORCE MAJEURE.** SaD shall not be liable for any delay in or failure to perform due to any event or contingency beyond its reasonable control (an event of "Force Majeure"), including acts of God, epidemics, acts of war whether declared or undeclared, blockades, labor disputes (whether of SaD's employees or the employees of others), raw material shortages and material increases in costs of raw materials, including those material increases in costs resulting from the imposition of tariffs. In the event of Force Majeure, the time for performance will extend for such time as reasonably necessary to enable SaD to perform. SaD may, during any period of shortage due to any of the above circumstances, allocate its available supply of Goods among itself and its purchasers in such manner as SaD, in its sole judgement, deems fair and equitable.

**17. TERMINATION.** SaD shall have the right to terminate these Terms or any purchase order, in whole or in part, at any time, without liability, if: (i) Customer breaches or defaults under these Terms or any other agreement it has with SaD; (ii) a petition under any applicable law relating to bankruptcy, insolvency, or reorganization is filed by or against Customer; (iii) Customer executes an assignment for benefit or creditors; (iv) a receiver is appointed for Customer or any substantial part of its assets; or (v) SaD shall have any reasonable ground for insecurity with respect to Customer's ability to perform and Customer is unable to provide SaD with adequate assurance within 10 days after written request therefor by SaD. In all cases, SaD's rights are cumulative, are not exclusive and in addition to all other rights and remedies it may have at law or in equity. No termination shall affect any accrued rights or obligations of either party as of the effective date of such termination.

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**18. WAIVER.** All waivers by SaD shall be in writing. Failure of SaD at any time to require Customer's performance of any obligation hereunder shall not affect SaD's right to require performance of that obligation. No delay or omission in the exercise of any right, power, or remedy hereunder shall impair such right, power, or remedy or be considered to be a waiver of any default or acquiescence therein.

**19. GOVERNING LAW.** Any dispute arising out of or related to these Terms will be governed by and construed in accordance with the laws of the State of Illinois without regard to any rules on conflicts of laws and exclusively litigated in either (i) a state or federal court located in Cook County, Illinois, or (ii) a state or federal court located in the state of SaD's principal place of business, at SaD's sole discretion.

**20. SEVERABILITY.** The unenforceability or invalidity of any clause in these Terms shall not have an impact on the enforceability or validity any other clause in these Terms. Any unenforceable or invalid clause shall be regarded as removed from these Terms to the extent of its unenforceability and invalidity.

**21. RELATIONSHIP OF THE PARTIES.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**22. MISCELLANEOUS.** Customer shall not assign any of its rights or obligations under these Terms or any purchase order without SaD's prior written consent. Customer shall comply with all applicable laws. There are no third-party beneficiaries. Provisions which by their nature should survive will remain in force after any termination or expiration of any sale of Goods. The section headings are included solely for the convenience of the parties.

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## Contacting Us

If there are any questions regarding these Terms of Sale, you may contact us using the information below.

 [www.secureadrug.com](http://www.secureadrug.com) | [hello@secureadrug.com](mailto:hello@secureadrug.com)

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