



# DIRECT PURCHASING POLICY (DPP)

July 2023

## 1. BACKGROUND INFORMATION

This Direct Purchasing Policy (“Policy”) governs the sale and distribution of Products sold by LifeScan, Inc. (“LifeScan”) for distribution in the United States. This Policy supersedes all prior policies, understandings or agreements between purchaser and LifeScan regarding the distribution of its Products unless otherwise stated in a written agreement specifically referencing this Policy. Unless otherwise set forth in an agreement to which LifeScan is a party, the terms and conditions set forth herein, shall control.

This Policy applies to the external customer who has set up a direct purchasing account with LifeScan Inc.

**BY ORDERING OR RECEIVING ANY PRODUCTS FROM LIFESCAN OR ITS AFFILIATES, NOTWITHSTANDING WHAT CUSTOMER’S DOCUMENTS (INCLUDING WITHOUT LIMITATION ANY PURCHASE ORDER) MAY SAY YOU AGREE THAT YOU HAVE READ AND UNDERSTOOD AND AGREE TO BE BOUND BY ALL TERMS AND CONDITIONS OF THIS POLICY AS MAY BE UPDATED FROM TIME TO TIME IN ACCORDANCE WITH THIS POLICY.**

## 2. DEFINITIONS

*Affiliate*: means any legal entities directly or indirectly controlling, controlled by, or under common control with a party, where ‘control’ means ownership of over 50% of the share capital or voting power in such entity; provided, however, that in the case of LifeScan “Affiliate” will be limited to LifeScan Global Corporation and its subsidiaries.

*Authorized Distributor*: means a distributor that has been approved as such by LifeScan, to purchase Product directly from LifeScan. A list of all Authorized Distributors is contained on [www.lifescan.com/transparency](http://www.lifescan.com/transparency).

*Consumer*: means an individual end-user (i.e. a patient) of Product.

*Counterfeit Goods*: means a product designed, dressed, branded or packaged in a manner intended to be indistinguishable from that of the genuine original and not manufactured or distributed with the authorization of LifeScan or its Affiliates. Counterfeit Goods include goods in which there is product or packaging of a genuine Product that has been purposefully adulterated or modified to conceal inclusion of foreign matter, or is otherwise modified, or in which there is addition or deletion of any material of information on the label without the authorization of LifeScan or its Affiliates.

*Customer*: means any entity that purchases Product directly from LifeScan.  
A Customer may also be an Authorized Distributor.

*Customer Service Team*: means LifeScan Order to Cash support team; point of contact for all operational inquires for Customers.

*Diverted Goods*: means LifeScan products not approved for sale in the U.S. or redirected from the manufacturer’s intended area of sale to a different place.

*Gray Market Goods:* means LifeScan products that are acquired from Non-Authorized Distributors.

*LifeScan Price List:* means Official LifeScan Price List. Document includes a list of active products with their corresponding case quantities among other information.

*Non-Authorized Distributor:* means a distributor not authorized by LifeScan to purchase Product direct from LifeScan but obtains LifeScan Product on the secondary market, or Gray Market.

*Post-Audit Claims:* means a deduction taken by Customer after a review by the Customer's internal audit team or a third-party auditor.

*Product:* means any product available for purchase from LifeScan.

*Supply Chain Event:* means a commercially significant adjustment to ordinary demand for Product by Customer.

*United States:* means the 50 United States or the District of Columbia.

*Universal Product Code ("UPC"):* means unique product identification for commerce.

## 3. ORDER MANAGEMENT

### 3.1 TERMS OF SALE AND SHIPMENT

Direct purchase Customers must comply with the requirements of this policy as amended, in LifeScan's discretion, from time to time. LifeScan reserves the right, in its sole discretion, to immediately terminate purchase activity with a Customer for any breach of this Policy.

#### **Credit:**

LifeScan reserves the right to require a new customer to complete a credit application prior to being approved as a Customer. Customer is required to provide its financials upon request. Financial documents requested by LifeScan Customer Service Team are used along with other factors to determine a Customer's credit limit. Acceptable financial documents are a Customer's Income Statement, Balance Sheet and Cash Flow Statement for the period requested; audited financial statements are preferred. Alternative documents, such as a tax return, must be approved by LifeScan in advance. Refusal to provide financial documents may result in Customer's account being placed on credit hold or limit a Customer's ability to qualify for credit terms.

Credit limits shall be subject to LifeScan's credit approval policies, from time to time. Credit limits may be also adjusted from time to time, depending on the Customer's management of their account.

#### **Territorial and Resale Restrictions:**

Customer's "Ship To" and "Bill To" locations must be in the United States.

Customer shall not and shall procure that its customer shall not sell products outside of the United States. Sale of Product by Customer or Customer's customer outside of the United States is impermissible and may result in action by LifeScan, including, but not limited to, immediate

termination of contracts, restrictions on future purchases of Product and/or claims for compensatory or punitive damages.

Purchase of Product by Customer from any source other than LifeScan or an Authorized Distributor is impermissible and may result in legal action by LifeScan, including, but not limited to, immediate termination of contracts, ban from future purchases of Product and the repayment of all discounts obtained by Customer and all rebates paid to Customer as well as the cost of any related audits.

Authorized Distributors may not buy from or trade Product with another Authorized Distributor or Non-Authorized Distributor.

No Customer or their Affiliates may purchase, or sell, Counterfeit Goods, Grey Market Goods or Diverted Goods.

**Regulatory and Product Storage:**

On request, Customer shall provide all necessary documentation to LifeScan to demonstrate that Customer has met all regulatory requirements in accordance with local, state, federal and applicable international laws, rules, statutes or regulations.

Customer shall store the Products in accordance with the requirements stated on the Product packaging.

**Shipping Terms:**

LifeScan's shipping terms are Freight on Board (FOB) named Destination. Title to the Products and risk of loss shall pass to the Customer on delivery.

All Products shall be delivered to Customer to specified delivery locations pre-approved by LifeScan, whether such delivery is by LifeScan's preferred carrier or otherwise. LifeScan reserves the right to charge Customer a reasonable surcharge for special procedures including, but not limited to, expedited shipment requests or delivery to alternate locations. For the avoidance of doubt, any request to change delivery location shall be made at least 14 days in advance and LifeScan may reject such requests in its sole discretion.

**LifeScan, Inc. is not liable for delays in delivery due to product shortages, acts of nature, war, terrorism, regulatory or carrier issues, or any circumstance beyond its reasonable control.**

**Stock Rotation:**

Customer shall maintain reasonable and current inventories of each of the Products in order to provide timely customer deliveries and maintain Product inventory on a first-in- first-out basis and rotate stock accordingly. Where date of expiry is applicable to any product, the FEFO (first expired, first out) process shall be implemented unless otherwise agreed upon with LifeScan.

**3.2 ORDERING**

**Minimum Purchase and Minimum Order Requirements:**

LifeScan reserves the right to cancel a Customer's direct purchasing account if Customer does not purchase at least \$400,000 in total of Products in a calendar year. Purchases by new Customers will be prorated for partial calendar years.

LifeScan reserves the right to refuse orders that are below the minimum order quantity of \$2,500.

**Order Management:**

Customer will transmit orders for Products to LifeScan using a mutually acceptable format including, but not limited to, email or electronic transmission. If Customer chooses to use LifeScan order form, Customer can request a soft copy via email at US.service@lifescan.com. Customer order must include: bill to and ship to address, Customer's account number, purchase order number, date, payment terms, UPC, part number, part description, quantity, unit of measure, unit price, line total and purchase order total. Product may be ordered in each's or cases. All Product quantities ordered in each's must adhere to full case sizes and not require case splitting. LifeScan reserves the right to refuse orders that do not adhere to full case sizes. See LifeScan's published Price List or information in the GS1 system for appropriate case quantities. LifeScan encourages the use of electronic order processes and payments.

**Right to Restrict Orders:**

LifeScan reserves the right, in its sole discretion, to restrict, limit or cancel orders or any percentage thereof. Any significant adjustment to ordinary demand is considered a Supply Chain Event and must be approved by LifeScan in advance. LifeScan reserves the right to monitor and/or restrict orders to historical levels. LifeScan reserves the right to restrict Customer orders placed in anticipation of Product price changes by using methodology, including, but not limited to, current vs. historical purchase trends.

LifeScan will use commercially reasonable efforts to ship Product with Product expiration dating of 12 months or greater from the date of shipment unless otherwise mutually agreed upon in advance by LifeScan and Customer.

**3.3 PRICING AND PAYMENT****Payment Terms:**

Payments for the Products shall be in accordance with the payment terms stated on the invoice. Where prompt payment or other such discounts are offered, the full invoice needs to be paid, less any LifeScan approved deductions, by the date set forth on the invoice ("Discount Due Date").

Payments received beyond the Discount Due Date will not be honored for any discount and Customer agrees to pay LifeScan immediately upon request for any unearned discounts taken. Non-compliance with payment terms may result in the loss of credit terms or delayed shipment.

Customer is solely responsible for payment and/or collection for taxes from its customers in accordance with any local, state, or federal laws or regulations.

**Price Changes:**

LifeScan, in its sole discretion, will determine the effective date of any change in price of Product. Price adjustment by Customer for inventory on hand or in transit is not permitted. Unless otherwise expressly stated by LifeScan, price changes will be effective immediately. All orders received by LifeScan will be shipped at the price in effect at the time of LifeScan's receipt of order. In the event of a price change, LifeScan will not allow any buy-in.

**Deductions and Non-Compliance Fees:**

Any request for deductions, under Section 4 of this Policy, to amounts otherwise due and owing LifeScan must be made to LifeScan's Customer Service Team and must be accompanied by appropriate supporting documentation. Customer must allow LifeScan 30 days to investigate and

respond to Customer's request for deduction and authorize Customer to deduct before the Customer deducts the relevant amount. If LifeScan does not respond within 30 days, the Customer is entitled to take the deduction. Unauthorized deductions and those submitted without prior approval from LifeScan and / or without proper documentation may result in immediate purchase suspension. Invalid deductions must be repaid to LifeScan immediately upon request.

LifeScan does not allow or pay non-compliance fees or any other fees for services unless pre-approve in writing. Any deductions taken on invoices received will not be honored and could result in loss of credit terms or delayed shipments. Non-Compliance fees include but are not limited to early or late requested order arrival dates, missed order delivery appointments, carton or labeling requests, or any other non-compliance fees.

**Post Audit Claims:**

LifeScan will not accept any post audit claims.

## 4. OVERAGES, SHORTAGES, DAMAGE, DISCONTINUED GOODS AND PRODUCT RECALL

### 4.1 INSPECTION AND REPORTING OF OVERAGES, SHORTAGES OR DAMAGE

Customer shall ensure that each order of Products is examined promptly at the time of delivery to Customer at its warehouse to determine whether any of the Products are in short supply, have been oversupplied, are defective or damaged. Where the delivery is noticeably damaged or there is a noticeable overage, the Customer should refuse the delivery from the carrier.

Customer shall inspect the goods promptly and shall report any issues in accordance with the Discrepancy Reporting Process below.

In the event any Products are damaged or deteriorate while in the custody of the Customer, the Company shall not be liable, and the Customer shall be solely responsible to bear any and all costs, charges, expenses, losses, damages, liabilities, claims, actions, penalties and fines that are the result of such action/inaction.

A signed proof of delivery ("POD") shall be proof of delivery and receipt of the quantity and type of product indicated on the POD.

### 4.2 DISCONTINUED PRODUCT

Product that is nationally discontinued further to a discontinuation notice sent by LifeScan ("Discontinuation Notice") is eligible for credit in accordance with the provisions of the relevant Discontinuation Notice.

### 4.3 DISCREPANCY REPORTING PROCESS

Except for concealed shortages or damages, the customer must notify the LifeScan Customer Service Team of any overages, shortages or damages via email [US.service@lifescan.com](mailto:US.service@lifescan.com) within 10 days of receipt of shipment.

In the case of concealed shortages or damages (within a manufacturer sealed case) the claim can be made within 45 days of receipt of shipment.

All reported claims must include the following information:

- Customer name (must be included in subject field of email)
- PO number (must be included in subject field of email) N/A for Discontinued
- Quantity received vs. invoiced
- LifeScan item number or UPC
- Item description
- Item lot number
- Customer contact information
- Copy of Proof of Delivery (POD) -N/A for entire missing shipments or Discontinued
- Photographic evidence - required for damages

#### **4.4 PRODUCT DISPOSAL**

Where possible product disposal should be arranged on site by the Customer, for larger quantities a collection will be arranged by LifeScan's designated partner, as part of the claims process.

#### **4.5 PRODUCT RECALL**

LifeScan will notify Customer in the event of a Product withdrawal or recall and provide instructions on how to assist LifeScan in the recovery and return of all affected merchandise. Customer shall promptly contact LifeScan Customer Service at 800-227-8862, in the event it becomes aware of any complaints regarding Product quality or performance.

## **5. GENERAL PROVISIONS**

### **5.1 USE OF DATA**

Product and pricing related data is the property of LifeScan. Customers are strictly forbidden from using or providing any Product and pricing related data for anything other than its internal administrative purposes unless expressly authorized by LifeScan. These data may not be shared with subsidiaries, alliances, joint ventures or any relationship between the Customer and any other Affiliate Customers and/or competitors. This prohibition includes, but is not limited to, presenting Product and pricing data in a manner that is in conflict with any interest of LifeScan.

### **5.2 CONFIDENTIALITY**

Except as provided herein, all written or verbal information disclosed by LifeScan shall be considered confidential. Only information that LifeScan has marked for disclosure, is available via LifeScan's websites, or is available through public record, shall be considered non-confidential. This Policy does not replace or supersede any existing non-disclosure or confidentiality Agreements between or among LifeScan and its Customers.