



PART OF THE *Johnson & Johnson*
DIABETES SOLUTIONS COMPANIES



DIRECT PURCHASING
&
DISTRIBUTION POLICY
(DPDP)

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1. BACKGROUND INFORMATION

This Direct Purchasing and Distribution 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 this Policy or 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 document applies to the external customer who has set up a direct purchasing account with LifeScan Inc. Customer’s order and acceptance of Product, notwithstanding what Customer’s documents (including without limitation any purchase order) may say, signifies and confirms Customer’s understanding and acceptance of this Policy and the rights of LifeScan herein.

2. DEFINITIONS

Affiliate: means any entity that is currently or in the future controlled by, under the control of, or under common control with a party, or controls a party. LifeScan Affiliates include, but are not limited to, Johnson & Johnson Health Care Systems Inc. (“JJHCS”) and Johnson & Johnson Consumer Inc. and JOM Pharmaceutical Services, Inc..

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.jjcustomerconnect.com/us/.

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

Counterfeit Goods: means LifeScan products not manufactured or distributed with the authorization of the legal brand owner that are designed, dressed, branded or packaged in a manner intended to be indistinguishable from that of the genuine original.

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

Customer Financial Services (“CFS”): means LifeScan Credit Risk and Accounts Receivable support and is the point of contact for all direct Customer accounts receivable inquiries.

Customer and Logistics Services (“CLS”): means LifeScan Distribution and Order Management support and is the main point of contact for all logistic related Customer inquiries.

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.

Drop ship: means a Product order that is invoiced by LifeScan to an Authorized Distributor and shipped directly by LifeScan to the Authorized Distributor’s customer.

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.

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

To qualify as a Customer of LifeScan, Customer must meet the criteria as indicated in this Policy and ensure that Customer’s customers are aware of the Policy and, to the best of Customer’s knowledge, following the Policy, including the Returned Goods Policy. New Customers must submit a Direct Account Credit Application that meets LifeScan credit approval criteria.

Customer’s “Ship To” and “Bill To” locations must be in the United States. Further, neither Customer nor Customer’s customer may sell Product 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 legal action by LifeScan, including, but not limited to, immediate termination of contracts, ban from future purchases of Product and/or compensatory or punitive damages. Customer must not sell Product to any person or entity who directly or indirectly resells Products outside of the United States. Customer must provide all appropriate documentation to LifeScan reflecting that Customer has met all regulatory license requirements in accordance with local, state, federal and applicable international laws, rules, statutes or regulations.

LifeScan’s shipping terms are freight on board (FOB) Origin, freight prepaid. Title to the Products and risk of loss shall pass to the Customer upon shipment of the Products. Potential insurance coverage available upon Customer acknowledgement through waiver.

LifeScan reserves the right, in its sole discretion, to adjust credit limits as deemed appropriate. Customer must keep its account balance with LifeScan in good standing.

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

that is in effect.

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

LifeScan reserves the right to charge Customer a reasonable surcharge to account for special ordering procedures including, but not limited to, Drop Ship orders and freight charges for expedited shipment requests.

LifeScan reserves the right, in its sole discretion, to immediately terminate purchase activity with a Customer if either the Customer or the Customer's customer buys or sells Product in a manner that is inconsistent with this Policy or with any local, state, federal or applicable international laws, rules, statutes or regulations.

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 discount 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. Rebates will not be paid for Product purchased from Non-Authorized Distributors.

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.

3.2 ORDER MANAGEMENT PROCEDURES

Customer will transmit orders for Products to LifeScan using a mutually acceptable format including, but not limited to, fax, email or electronic transmission. If Customer chooses to use LifeScan order form, Customer can request a soft copy via email at lfsuscls@its.jnj.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 eaches or cases. All Product quantities ordered in eaches 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 Price List for appropriate case quantities. LifeScan encourages the use of electronic order processes and payments.

3.3 ORDER FREQUENCIES AND VOLUME

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.

4. COUNTERFEIT GOODS AND DIVERTED PRODUCT

4.1 ORIGINAL SOURCING

No Customer or their Affiliates may purchase, or sell, Counterfeit Goods or Diverted Product. The purchase, or sale of such Counterfeit Goods or Diverted Product constitutes a breach of this Policy and will result in the forfeiture of status as a Customer or Authorized Distributor, as the case may be, and may result in legal action by LifeScan, including, but not limited to, immediate termination of contracts, ban from future purchases of Product and/or claims for appropriate compensatory and/or punitive damages.

4.2 NO TRADE AMONGST OR BETWEEN AUTHORIZED DISTRIBUTORS AND NON-AUTHORIZED DISTRIBUTORS

Notwithstanding anything to the contrary in this Policy, Authorized Distributors may not sell Product to, or trade Product with, other Authorized Distributors or Non-Authorized Distributors. Such purchases, sales or trades constitute a breach of this Policy and will result in the forfeiture of such parties' status as a Customer or Authorized Distributor, as the case may be, and may result in legal action by LifeScan, including, but not limited to, immediate termination of contracts, ban from future purchases of Product and/or claims for appropriate compensatory and/or punitive damages.

5. AUDIT

In order to verify that Customer has complied with its obligations under this Policy, LifeScan may audit all relevant books and records of Customer and its Affiliates. If Customer fails to make all such books and records available for audit, LifeScan may suspend any discount pricing and terminate a Customer's direct purchasing account effective immediately upon written notice and Customer will be obligated to repay any discounts received from the Customer's direct purchasing account from its inception. Audits will be on reasonable notice, during regular business hours and limited to two in any 12-Month period. Unless in response to a governmental investigation, audits will be limited to the three-year period prior to the date of the audit notice, provided, however, that if an audit reveals any facts or circumstances from which the LifeScan might reasonably infer that Customer has failed to comply with any material term of this Policy, LifeScan shall have the right to expand the audit period to include any period of time during which Customer has a direct purchase account with LifeScan pursuant to which the Customer and/or its Affiliates were entitled to receive rebates and/or discounts. Further, if an audit reveals any facts or circumstances from which LifeScan might reasonably infer that Customer has failed to comply with any material term of this Policy, LifeScan shall have the right, in addition to any other remedies available to it, to suspend a Customer's direct purchasing account, suspend discount pricing to Customer and its Affiliates under the direct purchasing account, this Policy and any other agreements between LifeScan and Customer, if any. Customer shall promptly reimburse LifeScan for any and all damages sustained and/or legal costs and attorneys' fees (the other provisions of this Policy notwithstanding) reasonably incurred by LifeScan related to the breach of this provision, including, without limitation, the repayment of all discounts obtained by Customer and all rebates paid to Customer under this Policy, the direct purchase account or any other agreement, as well as the cost of any related audits. Customer agrees that it will, at all times during the term of this Policy and for a period of three (3) years after its expiration or termination, maintain systems capability to capture, record and report sales of all LifeScan products completely and accurately. This section shall survive expiration or termination of this Policy for any reason.

6. TERMS AND CONDITIONS

6.1 TERMS & PAYMENT SCHEDULE

Payments for the Products shall be in accordance with the Terms of Payment stated on the invoice. For all payment terms that LifeScan offers, the terms are date of invoice, funds received in LifeScan's bank on the discount due date in order to receive the discount. For those Customers who choose not to utilize EFT or wire transfer as their standard form of payment, ample mailing time must be allowed so that funds are received in LifeScan's bank on the discount due date. Payments received beyond the discount due date will not be honored for the discount and Customer agrees to pay LifeScan within 30 days for any unearned discounts taken. Non-compliance with payment terms may result in the loss of credit terms or delayed shipment. Payments received prior to the due date are appreciated but not expected except as otherwise set forth in a written agreement with LifeScan. There is no additional cash discount or interest offered for any early payments.

6.2 PRICE CHANGE

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 en route to Customer is impermissible. 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. 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.

7. INVENTORY MANAGEMENT

7.1 RETURNED GOODS

Customer agrees to comply with the LifeScan Returned Goods Policy which can be found at: <http://www.lifescan.com/distribution-reimbursement/distribution>. LifeScan reserves the right to modify the policies in its sole discretion at any time.

Product purchased from an Authorized Distributor that is damaged in transit should be returned to such Authorized Distributor. LifeScan will not accept any damaged Product that was not purchased directly from LifeScan.

7.2 OBSOLESCENCE AND RATE OF RETURN LIMITS

LifeScan reserves the right to limit or restrict Customer purchase activity for Customers with Product obsolescence and/or return rates that are considered excessive. Recalls and LifeScan initiated returns are excluded from these calculations.

7.3 PRODUCT COMPLAINTS, RECALL NOTIFICATION PROCESS AND PROCEDURE

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.

7.4 STORAGE OF PRODUCT

Customer takes full responsibility to meet Product storage requirements as indicated on Product packaging.

8. FINANCIAL MANAGEMENT

8.1 DEDUCTIONS

Any deductions for amounts otherwise due and owing LifeScan must be accompanied by appropriate supporting documentation, and must have received prior authorization from LifeScan's CFS Department. Unauthorized deductions and those submitted without proper documentation may result in immediate purchase suspension. Invalid deductions must be repaid to LifeScan immediately upon request.

8.2 CHARGEBACK SUBMISSIONS

Customer agrees to comply with the LifeScan Guidelines for Chargeback Submissions (Appendix A). LifeScan reserves the right to amend the foregoing Guidelines in its sole discretion at any time.

8.3 POST AUDIT CLAIMS

Claims for pricing and invoice discrepancies must be submitted within 24 months from the invoice date. All claims must be fully documented and submitted to LifeScan sixty (60) days prior to any deductions pursuant to this Policy. Additionally, claims prepared by any third parties on behalf of Customer (e.g., outside audit firm) must be thoroughly reviewed and approved by the Customer's management before being submitted to LifeScan or any LifeScan Affiliate.

8.4 NON-COMPLIANCE FEES

LifeScan does not allow or pay non-compliance fees. 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.

8.5 CREDIT REVIEW

Customer is required to furnish financials upon request. Financial documents requested by LifeScan CFS department 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. Substitutions to these documents, such as a tax return, must be approved 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.

9. GENERAL PROVISIONS

9.1 RESPONSIBILITIES

Customer shall abide by this Policy and with any local, state, federal or applicable international laws, rules, statutes or regulations governing resellers of Products.

9.2 PRODUCT AND PRICING MANAGEMENT

It is the Customer's responsibility to maintain Product and pricing information in its own systems. LifeScan will make commercially reasonable efforts to notify Customer of any changes to Products.

9.3 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. This 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.

9.4 SERVICES OR FEES

LifeScan does not pay for services or fees unless pre-approved and agreed to in writing by an authorized agent of LifeScan or a LifeScan Affiliate.

9.5 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 web sites, 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.

9.6 TAXES

Customer bears sole responsibility for payment and/or collection for taxes from its customers in accordance with any local, state, federal, or applicable international laws, rules, statues or regulations. Customer also bears sole responsibility for any import/export fees or any other similar obligations related to a sale from the Customer to its customers.

10. APPENDIX

10.1 Appendix A – Guidelines for Chargeback Submissions

Appendix A – Guidelines for Chargeback Submissions



Guidelines for Chargeback Submissions

*Chargebacks must be sent via EDI /or Excel® spreadsheet

Submit all of the following information:

- Authorized Distributor's Full Name, Street Address, City, State, Zip, and DEA# if available. No Post Office Boxes are accepted.
- Debit Memo reference number or Claim Number
- Total Claim Amount
- The facility's DEA# if available. Otherwise, please include the full "Ship-To" address: Name, Street Address, City, State, and Zip. Post Office Boxes are not acceptable "Ship-To" addresses.
- Invoice Number
- Date of Shipment
- Contract Number
- Full National Drug Code (NDC Code) or LifeScan Product code
- Quantity as stated on the contract.* (The reported quantity should match the units of measure in which the Product was purchased from LifeScan.) LifeScan does not accept chargebacks with each as a quantity.
- Contract Price as stated on the contract*
- Claim amount of the item submission
- Extended Rebate Amount
- List Price

**If you require a copy of the contract, please call the Contract Management Support Center at 800-814-9301 or email csupport@hcsus.jnj.com. Please include your contract number.*

RESUBMISSION POLICY

- Claims for additional payment must be resubmitted within 60 days of receipt of payment.
- All resubmission must include the cover page of the reconciliation with the pages containing the discrepancies, and be accompanied with proper documentation to substantiate the claim. The following provides examples of proper documentation for some common types of resubmissions:

Chargeback denied for an unknown Customer

- Resubmission must include the full address. Also, please provide a copy of the membership list verifying facility eligibility for the group at the time of the ship date reported.

Chargeback denied due to error in pricing or Product codes

- Resubmission must include a copy of the contract from Johnson & Johnson Health Care Systems showing the price requested for Product(s) or Product codes.

Chargeback denied for membership eligibility

- Resubmission must be accompanied by a copy of membership for the requested group covering the ship date of the purchase.