

## SIGMA COMPANY LTD - STANDARD TERMS & CONDITIONS OF SUPPLY

### 1. GENERAL

- (a) These terms and conditions shall form part of any agreement to supply goods to the purchaser by Sigma Group entities ("Agreement"). "Sigma Group" includes Sigma Company Limited (ABN 44 004 132 923) and each of its related entities (as defined in the Corporations Act), agents, successors and assigns.
- (b) All goods supplied by a Sigma Group entity (hereinafter in the case of each supplying entity referred to as the "Company") are supplied on the terms or conditions set out herein and by taking delivery of goods, Customer shall be deemed to agree that these terms and conditions apply to the exclusion of all others.
- (c) Time is of the essence in respect of all the Customer's payment obligations.
- (d) "Goods" means any goods supplied by the Company to the Customer.

### 2. DELIVERY

- (a) No orders are binding on the Company until they have been accepted in writing or performed by the Company.
- (b) If a delivery date is specified, the Company will endeavor to deliver within the time so specified but in no circumstances will the Company be liable for any loss or damage of any kind whatsoever caused directly or indirectly by any loss in transit, delay in or failure of delivery in whole or in part.  
This clause is subject to our obligation as an approved CSO distributor to supply any brand of any PBS medicine within 24 hours from the regular order cut off time, where requested by a Community Pharmacy.
- (c) The Company reserves the right to make part deliveries of any order and each part delivery shall constitute a separate sale of Goods upon these terms and conditions.
- (d) The Company reserves the right to suspend or cancel deliveries to any Customer without notice where the Customer's account has exceeded the due date for payment and/or the Customer's credit account limit.
- (e) The risk in the Goods purchased shall, unless otherwise agreed in writing, pass to the Customer upon dispatch of the Goods (ie, ex Company warehouse).
- (f) The Customer must inspect all Goods upon delivery and shall in accordance with the Company's credit return policy give notice to the Company of any matter or thing by which the Customer alleges that the Goods are not in accordance with the Customer's order. Failing such notice and, to the extent permitted by law, the Goods are deemed to have been delivered and accepted by the Customer.

### 3. RETURN OF STOCK AND CLAIMS FOR CREDIT

- (a) The Company is not under any duty to accept Goods returned by the Customer and will do so at its discretion only in accordance with and upon compliance by the Customer with the Company's credit return policy, a copy of which is available upon request.

### 4. RETENTION OF TITLE

- (a) Legal and equitable title to any of the Goods supplied by the Company to the Customer from time to time shall only pass to the Customer upon payment to the Company of all amounts which are owing to it and the Customer agrees with the Company to keep the Goods pending their sale as fiduciary for the Company in a manner that clearly shows the ownership of the Company. The Customer may mix the Goods with others and sell the Goods whether mixed or not as the Company's fiduciary to a third party in the ordinary course of the Customer's business and deliver them to that third party provided that the Customer shall keep the proceeds of those sales in a separate account with separate records in accordance with its fiduciary obligations.
- (b) In addition to the rights granted to the Company in paragraph (a) above, if:
  - i. any amount due by the Customer to the Company in respect of the Goods remains unpaid 30 days after the due date on which it first became due and payable; or
  - ii. the Customer breaches these terms and conditions or becomes insolvent or makes an assignment for the benefit of its creditors, or is placed under official management or goes into liquidation or a receiver or receiver and manager is appointed in respect of any of its assets;
 then the Company may retake possession of any Goods for which the Company has not received payment in full wherever they are located and the Customer irrevocably authorizes the Company to enter upon the premises of the Customer for that purpose without any court action or other process at law and then to recover the cost of that repossession from the Customer as a debt due.

### 5. PRICE

- (a) Unless otherwise agreed in writing, the price payable by the Customer for the Goods is the Company's current price at the time of ordering. Prices shown on any price list may be subject to alteration without notice.
- (b) Where applicable the appropriate level of GST or other tax will be charged in addition to the price of the Goods unless an exemption is claimed.
- (c) Unless otherwise agreed in writing, the Company may charge a monthly account keeping fee where the value of the Customer's monthly total purchases does not exceed the Company's minimum monthly purchase requirement as advised to the Customer from time to time.

### 6. PAYMENT

- (a) The Customer is required to make payment of the amount due to the Company prior to noon on the 25th day of the month following delivery. To facilitate payments, the Customer agrees, upon request by the Company, to execute and deliver to the Company a Direct Debit Request in the Company's standard form.
- (b) If the Customer fails to make payment in accordance with this clause, after demand for payment by the Company, all amounts owing by the

Customer to the Company on any account shall immediately become due and payable.

- (c) The Customer will be liable to pay interest on any overdue amount at the annual rate of 15%, which interest will accrue on a daily basis from the date payment became overdue until the Company has received payment of the overdue amount together with the interest that has accrued.
- (d) If the Company accepts payment via any credit card, this will incur an additional fee as advised by the Company from time to time.
- (e) If, in the Company's opinion, the Customer's financial position becomes unsatisfactory, cash payments or security satisfactory to the Company may be required by the Company from the Customer for future deliveries and for the Goods which have been previously delivered. If such cash payment or security is not provided, in addition to the Company's other rights and remedies, the Company may discontinue deliveries.
- (f) Invoices for Goods and services are stated with amounts payable both including and excluding any applicable settlement credit. Where the invoice is not settled in full by its due date, the applicable value of settlement credit will be charged to the Customer via a tax invoice adjustment note. If a credit return is raised on the invoice, the settlement credit is based on the net remaining outstanding value.

### 7. WARRANTIES AND CONDITIONS

- (a) Any description of the Goods which appears on any invoice or other sales document or purchase order is given solely for identifying the specific Goods that are the subject of these terms and conditions and does not render the sale a sale by description.
- (b) All warranties and conditions, other than those expressly set out herein, whether statutory or otherwise as to the Goods and as to the quality, fitness or suitability for any purpose are hereby excluded except to the extent of any non-excludable warranty, condition or liability of the Company provided for by the Trade Practices Act or any other relevant and applicable legislation.
- (c) If those statutory provisions apply, to the extent to which the Company is entitled to do so, its liability will be limited at its option to the replacement of the Goods; the re supply of equivalent Goods; or the payment of the cost of replacing the Goods or acquiring equivalent Goods.
- (d) To the extent permitted by law, the Company will under no circumstances be liable to the Customer for any loss, damage, liability, expense, injury or death sustained or incurred by the Customer or any other party, including without limitation any loss of profits, or economic, special, indirect or consequential loss or damage, whether resulting directly or indirectly out of any negligence of the Company, the supply, performance or use of any Goods or out of any breach of the Company under any contract incorporating these terms and conditions or any other cause.
- (e) In no event shall the liability of the Company, whether under paragraphs (c) or (d) above, or otherwise, exceed the purchase price of the Goods supplied by the Company.

### 8. TERMINATION

- (a) The Company may terminate any Agreement to supply Goods to the Customer by giving notice to the Customer if:
  - i. the Customer breaches any of its obligations under any agreement with the Company and does not rectify the failure (where the failure is rectifiable) within 14 days of notice; or
  - ii. a receiver, receiver and manager, administrator, trustee, mortgagee or similar official is appointed over any of the assets or undertakings of the Customer, any application/order/steps are made or taken to pass a resolution for the liquidation of the Customer, or the Customer enters or resolves to enter into any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them.
- (b) Termination will not affect any rights or obligations which may have accrued prior to termination.

### 9. OTHER

- (a) If by any reason of any fact, circumstance, matter or thing beyond the reasonable control of a party, that party is unable to perform in whole or in part any obligation owing to the other, that party is relieved of that obligation to the extent and for the period that it is so unable to perform and is not liable to the other party in respect of such inability, however, an obligation to pay amounts owing by one party to the other shall not be relieved under any circumstances.
- (b) The Customer consents to the disclosure by or to the Company (and to persons with whom the Company may have a legitimate reason to share such information) of any personal or other information of the Customer by it or others.
- (c) The construction, operation and performance of any contract subject to these terms and conditions shall be governed by the laws of the State of Victoria and the parties accept the jurisdiction of the Courts of that State for resolution of any dispute.
- (d) The Company reserves the right to vary these terms and conditions at any time. Customers will be advised of any changes in the terms and conditions through trade account receipts, notices on, or with price lists, account statements or invoices, press advertisements, via the Company's website or other such means.
- (e) The Company may transfer all or any part of its rights, interests, obligations or liabilities under this Agreement by assignment or by novation, provided that the company remains responsible for complying with its obligations as an approved CSO distributor. Customer may transfer only with the prior written consent of the Company.
- (f) No waiver of any provision of these terms and conditions or any Agreement will be of any force or effect unless confirmed in writing, signed by the parties.
- (g) Any provisions of these terms and conditions that are prohibited or unenforceable under the laws of a jurisdiction shall not apply in that jurisdiction and will not affect the validity or enforceability of the other provisions of these terms and conditions.