

Application of these Terms

These Sigma Purchase Order Terms – Non-Stock ("Conditions"), as amended from time to time, apply to all Goods and/or Services provided by any company, person or other party ("Supplier") to Sigma Healthcare ("Sigma") which are not directly for distribution or resale by Sigma to its customers. These Conditions, any Standing Contract and any Purchase Order for a specific scope or quantity of Goods and / or Services constitute the terms of the agreement between the Supplier and Sigma ("Contract"). Sigma is not bound by the Supplier's terms of sale or any other conditions outside of the Contract that the Supplier seeks to apply to the supply of the products by the Supplier to Sigma.

1. Ordering Goods and Services

- 1.1 Sigma requires the supply of the Goods and/or Services and the Supplier has represented that it can supply the Goods and/or Services.
- 1.2 Sigma may order Goods and/or Services from time to time, under:
 - (a) a separate signed supplier agreement made between the Supplier and Sigma which entitles Sigma to place ongoing orders from time to time for a range or scope of Goods / Services over an agreed term (**Standing Contract**); or
 - (b) a one-off written order issued by Sigma specifying the Goods and/or Services to be provided and which is marked and shown to be expressly a 'Purchase Order' from Sigma (**Order**).
- 1.3 If a Standing Contract is in place between Sigma and the Supplier, Sigma will place orders for the Goods / Services with Supplier from time to time in the format that is agreed between Sigma and the Supplier under the relevant Standing Contract.
- 1.4 The Supplier only accepts and is deemed to accept an Order on the earlier of:
 - (a) Signing and returning an Order to Sigma;
 - (b) Communicating to Sigma it accepts the Order in writing;
 - (c) Delivering any of the Goods ordered; or
 - (d) Commencing to carry out the Services the subject of the Order.
- 1.5 Once the Supplier accepts the Order, an individual contract comes into existence (**Contract**) comprising:
 - (a) the Standing Contract, if any, made between the parties;
 - (b) the Order;
 - (c) these purchase terms; and
 - (d) any other documents exchanged between the parties and intended to comprise a Contract document,
 which will take precedence in the order listed above with the first taking priority and so on.
- 1.6 All Goods / Services are supplied under the terms of the Contract. Any Supplier terms and conditions stated in its sales order form, delivery receipt, e-procurement system or elsewhere do not apply. Unless otherwise set out in an Order or a Standing Contract, Sigma is not bound to any minimum order or purchase requirement in relation to the Goods and/or Services.

2. Delivery

- 2.1 The Supplier must deliver the Goods to the Site or perform the Services by the applicable Delivery Date. On-time delivery and performance of the Goods and/or Services is of material importance to Sigma. The Supplier undertakes not to interrupt, delay, abandon or withhold delivery of Goods or performance of Services for any reason, including but not limited to a dispute between the parties. Any breach of this clause may cause Sigma to breach or otherwise suffer loss, damages and expenses under other arrangements it has with third parties for the supply of goods or services.

- 2.2 The Supplier shall keep Sigma fully informed as to the progress of the performance of the Goods and/or Services including any event which may result in Late Delivery. If Late Delivery occurs or is likely to occur for any reason, Sigma may (without limiting any other right Sigma may have), take any one or more of the following actions:
 - (a) direct the Supplier to (at the Supplier's cost and expense) allocate additional resources or otherwise take additional steps to avoid Late Delivery occurring or to reduce the extent of the Late Delivery;
 - (b) grant to the Supplier more time for performance of delivery;
 - (c) terminate the Contract with immediate effect;
 - (d) cancel the Order for the relevant Goods and/or Services either in whole or in part; and / or
 - (e) exercises any right to retain, withhold, reduce or set-off any amount due to the Supplier.
- 2.3 The Supplier must comply with all Commonwealth, State and local shipping, road and rail transport laws and regulations in delivering the Goods (and is responsible for obtaining all necessary approvals, consents and permits for delivery and supplying copies of such approvals, consents and permits to Sigma upon request).

3. Risk and title

- 3.1 The Supplier bears all risk of loss and damage to the Goods or any Deliverable until the Goods and / or Deliverable have been delivered into the control or possession of Sigma at the Site and have not been rejected by Sigma under clause 5.3.
- 3.2 Title to the Goods or any Deliverable passes to Sigma on the earliest of:
 - (a) payment by Sigma for it (or relevant part of it); and
 - (b) the day before affixation of it (or relevant party of it) to any Sigma property or Site.
- 3.3 The Supplier warrants that:
 - (a) it is the owner of the Goods or Deliverables free from any liens, charges and encumbrances and will provide the Goods and Deliverables on that basis; and
 - (b) Sigma will be entitled to clear, complete and quiet possession of the Goods and any Deliverables.

4. Supply of Goods & Services

- 4.1 The Supplier must, in supplying the Goods or performing the Services always:
 - (a) perform the Services in accordance with the terms and conditions of the Contract;
 - (b) supply the Goods and provide the Services: (1) professionally, carefully, skilfully and competently; (2) in a timely and efficient manner; (3) in accordance with best practice in the Supplier's industry; and (4) to the satisfaction of Sigma (acting reasonably) in all respects;
 - (c) maintain and provide suitably skilled and qualified Supplier Personnel, and all other resources required to enable the Supplier to meet its obligations under the Contract;

- (d) ensure that Supplier Personnel maintain all licences, permits, clearances and other qualifications that they are required under any law or the Contract to have and maintain (and provide copies of same to Sigma on request);
- (e) comply, and ensure that Supplier Personnel comply, with all applicable laws, regulations and industry codes of conduct;
- (f) where relevant to the Services comply, and ensure that Supplier Personnel comply, with all Sigma's security, occupational health and safety, environmental and other policies and procedures made known to the Supplier including Sigma's Quality Assurance and Distribution Centre Requirements;
- (g) comply with all reasonable directions of the authorised representatives of Sigma;
- (h) not interfere with any of Sigma's activities, or the activities of any other person located on the Site; and
- (i) not represent or hold out that it is an agent of Sigma or that it has authority to act, or to make any commitment on behalf of Sigma, and must not allow any Supplier Personnel to do so.
- 4.2 Unless the Order expressly states otherwise, the Supplier must supply, at its own expense, all labour, plant, consumables, equipment, tools, appliances or other property and items required to deliver the Goods and/or provide the Services.
- 5. Quality of Goods**
- 5.1 The Goods must:
- (a) be free from any defects in design, materials or workmanship and be fit for the purpose for which they are intended;
- (b) match the description (including any technical or performance specifications) set out in the Order or otherwise represented by the Supplier;
- (c) comply with any product standards or industry standards that are relevant to the manufacturing, operation and use of the Goods, and any standards otherwise represented by the Supplier;
- (d) meet all safety and performance requirements described in the Order or otherwise represented by the Supplier; and
- (e) be supplied with adequate and detailed Documentation, packaged, labelled and delivered to meet Sigma's Quality Assurance and Distribution Centre Requirements made known to the Supplier from time to time.
- 5.2 The Supplier is responsible for procuring all necessary licences to any intellectual property rights included as part of the Goods to the extent required for Sigma to own and use the Goods as described in the Contract.
- 5.3 If the Goods fail to comply with the conditions set out in clause 5, Sigma will notify the Supplier of such failure or non-compliance and may, at Sigma's election:
- (a) cancel the Order for those Goods (in whole or in part) without penalty and require the Supplier to collect any Goods already delivered to Site and repay to Sigma all moneys paid to the Supplier for those Goods and/or related Services (whether delivered or not);
- (b) require the Supplier to repair, modify or replace the Goods within 5 Business Days (or such other reasonable period as may be agreed between the parties); and/or
- (c) exercises any right to retain, withhold, reduce or set-off any amount due to the Supplier.
- (d) If the Supplier delivers Sigma a quantity of goods exceeding the quantity of Goods specified in the Order, the excess goods must be immediately collected at the Supplier's own risk and expense.
- 6. Warranties**
- 6.1 The Supplier warrants that:
- (a) all Goods, Services and Deliverables will be of acceptable quality, be fit for the purpose for which they are intended to be used and comply with all descriptions and specifications provided in the Contract;
- (b) all Documentation will be complete, up-to-date and accurate and suitable for Sigma to use to operate and maintain the Goods and/or Deliverables or to have the Services continued by a third party if the Contract terminates or expires;
- (c) the Supplier has the necessary skills and experience to perform the Services properly and in compliance with the Contract;
- (d) the use of the Goods, Services or Deliverables will not infringe the intellectual property rights of any person;
- (e) as at the date of the Order, there are no actions, claims or legal proceedings, actual or threatened, that would or may materially hinder or prevent the Supplier from making good its warranties or otherwise performing its obligations under the Contract;
- (f) the Supplier will always during the provision of the Services hold and comply with the terms of all licences, authorisations, registration, approvals and consents which it is required to hold and comply with for the lawful supply of the Goods in Australia and/or provision of its Services under the Contract;
- (g) it will immediately notify Sigma if it becomes aware of any fact, circumstance or thing that is inconsistent with any of its warranties in this clause 6.
- 6.2 The Supplier further warrants that the Goods will be new, of merchantable quality and free from defects in design, material and workmanship for any warranty period specified in the Order or otherwise represented in the Supplier's technical information about the Goods (Warranty Period). If a defect arises with any Goods, Services or related Deliverables during the Warranty Period, the Supplier will, at its own expense, repair or replace the defective Goods or re-perform or rectify the defective Services within the time stated by Sigma, or if no time is stated, within a reasonable time. If the goods are not replaced or repaired within that time, Sigma may engage others to repair or replace the defective Goods or rectify the defective Services and the Supplier will be liable for the costs incurred by Sigma.
- 6.3 Each of the warranties is separate and independent and is not limited or restricted by any other warranty or provision of the Contract.
- 7. Price and payment terms**
- 7.1 Sigma will pay the Price to the Supplier.
- 7.2 The Supplier may not increase the Price of Goods or Services unless both parties have agreed in writing.
- 7.3 Unless otherwise agreed in writing by Sigma, all costs associated with packaging, transport and delivery of the Goods to the Site are included in the Price.
- 7.4 The Supplier must claim payment for the Goods and/or Services in accordance with any of the following payment arrangements set out in the Contract which will provide for either: (a) payment on completion of the Services or delivery of the Goods; (b) progress payment at monthly intervals; or (c) payment by reference to agreed milestones.

- 7.5 On becoming entitled to payment under the Contract, the Supplier must provide to Sigma an Invoice which meets all the requirements of a valid tax invoice for GST Law purposes which must include the following details: a reference to Sigma's Order and the relevant contract (if any) including the line item numbers on this Order and the contract number (b) a detailed description of the delivered Goods or performed Services entitling the Supplier to claim payment, including the date of delivery and/or period of Services and the relevant quantity of the Goods and/or Services; (c) an individual reference number for Sigma to quote with remittance of payment; (d) the Price relating to the Goods and/or Services, broken down to reflect the same Price components on the Order or Contract, including the amount of any applicable GST; and (e) Sigma project / office, Site and Sigma contact name.
- 7.6 If Sigma requests, the Supplier must provide Sigma with all relevant records to calculate and verify the amount set out in any claim for payment / Invoice.
- 7.7 Sigma must pay all Invoices that comply with clause 7.5 by the date set out in the Order or if no date is set out within 31 days following the end of the month in which the relevant invoice is received from the Supplier except where Sigma:
- is required by Law to pay within a shorter time frame, in which case Sigma must pay within that time frame;
 - exercises any right to retain, withhold, reduce or set-off any amount due to the Supplier;
 - disputes the Supplier's claim for payment or Invoice, in which case: (1) to the extent permitted by Law, Sigma may withhold payment of the disputed part of the Supplier's claim for payment or Invoice pending resolution of the dispute; and (2) if the resolution of the dispute determines that Sigma must pay an amount to the Supplier, Sigma must pay that amount upon resolution of that dispute; or
 - is otherwise required by Law to withhold a portion of payment for services rendered.
- 7.8 If the Contract states that the Supplier is to be paid by milestone payments, Sigma will pay the Supplier only based on the relevant milestones achieved by the Supplier. The Supplier may not claim payment for partially completed milestones.
- 7.9 Payment of an amount on an invoice or failure to dispute an invoice prior to the time it is paid, does not prevent Sigma subsequently disputing its liability to pay that amount, nor is it evidence that the Goods and / or Services or related Deliverable has been accepted or that it complies with the Contract.
- 7.10 Sigma may reduce any payment due to the Supplier under the Contract by any amount which the Supplier must pay Sigma, including costs, charges, damages and expenses and any debts owed by the Supplier to Sigma on any account whatsoever. This does not limit Sigma's right to recover those amounts in other ways.
- 8. Personal Property Securities Act**
- 8.1 If title to the Goods has passed to Sigma but the Goods are in the possession or control of the Supplier for any reason whatsoever, then the Supplier acknowledges and agrees that:
- the Supplier holds the Goods as bailee for Sigma and a fiduciary relationship exists between Sigma and the Supplier for this purpose;
 - the Supplier grants to Sigma a security interest in the Goods (and any proceeds thereof);
 - for section 109(1) of the Personal Property Securities Act 2009 (Cwlth) (PPSA), the security interest created under this clause constitutes a PPS lease that does not secure payment or performance of an obligation;
 - Sigma may register a financing statement on the Personal Property Securities Register (PPS Register) against the Supplier; and
 - the Supplier waives its right to receive any verification statement (or notice of any verification statement) in respect of any financing statement or financing change statement relating to any security interest created under this document.
- 8.2 If the Supplier has any security interest in the Goods, the Supplier acknowledges and agrees that any financing statement it registers against Sigma in respect of that security interest on the PPS Register must:
- reflect that any such security interest is a specific security interest;
 - not be registered in either of the 'all present and after acquired property no exceptions' or 'all present and after acquired property with exceptions' collateral classes; and
 - be removed from the PPS Register within 5 business days of the secured obligations of Sigma to the Supplier being satisfied and/or the security interest otherwise being released.
- 8.3 A word or expression used in this clause which is defined in the PPSA has the same meaning in this clause unless the context otherwise requires.
- 9. Inspection and information**
- 9.1 The Supplier must keep Sigma fully informed on all aspects of the delivery of the Goods and/or the performance of any Services, including by promptly responding to requests for information made by Sigma from time to time.
- 9.2 The Supplier must provide to Sigma on request progress reports setting out, in such detail as is reasonably requested, the different stages of design, manufacture or delivery of the Goods and/or performance of the Services.
- 9.3 Sigma may direct the Supplier that the whole or any part of the Goods and / or Services be tested, examined, inspected or reviewed prior to Delivery or promptly following Delivery. The Supplier and Sigma shall co-operate with each other to arrange a time and place for such inspection and to ensure such parts or samples of the Goods are accessible by Sigma (or its representatives) as may be reasonably required. On completion of the tests, inspection, examination and/or review, the results shall be promptly made available to both parties and to the extent of any non-conformity clause 5.3 shall apply.
- 10. Confidential information**
- 10.1 The Supplier must keep the Confidential Information of Sigma secret and confidential and may only use Confidential Information for the purposes of the Contract. The Supplier must immediately notify Sigma of any suspected or actual unauthorised use, copying or disclosure of Confidential Information.
- 10.2 The Supplier may disclose the Confidential Information of Sigma:
- to Supplier Personnel who have a need to know for the purposes of the Contract (and only to the extent that each has a need to know) and before disclosure, have been directed by the Supplier to keep confidential all Confidential Information of Sigma; or
 - where it is required by law to do so, provided the Supplier must before doing so notify Sigma and give Sigma a

reasonable opportunity to take any steps that Sigma considers necessary to protect the confidentiality of that information, and notify the third person that the information is confidential information of Sigma.

11. Variations

11.1 Sigma may, at any time, only by giving written notice expressly referring to this clause, add, delete, omit or change the nature, quality, method for delivery, time for delivery or quantity of the Goods and/or Services under the Contract (a **Variation**).

11.2 Prior to directing a Variation Sigma may request, and the Supplier must promptly notify Sigma, whether a proposed Variation can be effected, together with, if it can be effected, the Supplier's estimate of the: (a) effect on the work plan or program (including on any Date for Delivery and Date for Acceptance); and (b) cost (including all additional time-related costs, if any) of the proposed Variation.

11.3 The Supplier may request Sigma to direct a Variation for the convenience of the Supplier and Sigma may do so in its sole and absolute discretion. Unless a direction under this clause 11.3 provides specifically for additional payment, the Supplier shall not be entitled to either extra time or extra money in relation to such a direction.

11.4 Sigma will promptly price each Variation using the following order of precedence: (a) prior agreement; (b) applicable rates or Prices in the Contract; (c) rates or Prices in a priced schedule of rates to the extent that it is reasonable to use them; and (d) reasonable rates or prices, which shall include a reasonable amount for profit and overheads, and any deductions shall deduct a reasonable amount for profit and overheads. That price as assessed by Sigma acting reasonably, will be added to or deducted to the Price.

11.5 If the Supplier considers a direction from Sigma to constitute a variation but which does not comply with this clause, it must notify Sigma within 7 days of that direction. If the Supplier fails to notify Sigma in accordance with this clause 11.5, then the Supplier: (a) must comply with the direction; (b) waives any entitlement to additional payment in respect of the direction (whether or not it constitutes a Variation or not); and (c) releases Sigma from any claim for additional payment in respect of the direction.

12. Termination

12.1 Sigma may immediately terminate any Order for Goods or Services in whole or part by notice in writing at any time if:

- (a) the Supplier breaches any of its material obligations under the Contract and such breach is incapable of remedy or the Supplier fails to remedy the non-compliance or breach within 5 Business Days after Sigma requests that the Supplier remedy it;
- (b) the Supplier suffers an Insolvency Event; or
- (c) the terms of the Order otherwise permit Sigma to terminate.

12.2 Sigma may terminate an Order for Goods without cause at any time prior to delivery in whole or in part, and the Supplier's compensation will be limited to the Supplier's actual direct costs incurred in respect of the Goods, and excludes any consequential loss.

12.3 If a notice of termination is issued the Supplier must:

- (a) stop work to the extent required by the notice;
- (b) take such action as necessary or as directed, for the transfer, protection and preservation of Sigma's property (including the Goods if those Goods have become the property of Sigma); and

(c) follow all reasonable directions of Sigma in relation to vacation of the Site and transition or completion of any Services.

13. Force Majeure Event

13.1 If a Force Majeure Event prevents a party (Affected party) from performing its obligations under the Contract:

- (a) the Affected party must promptly notify the other party of the obligations which will be affected by the Force Majeure Event;
- (b) those obligations of the Affected party will be suspended for the time the Force Majeure Event continues;
- (c) the Affected party must use its best endeavours to mitigate the effect of the Force Majeure Event; and
- (d) neither party will be liable to the other party for any liabilities, losses, damages, costs or expenses the other party suffers or incurs because of that Force Majeure Event.

13.2 If the Supplier is prevented from performing its obligations for more than 10 Business Days because of a Force Majeure Event, Sigma may terminate the Contract with immediate effect by giving written notice to the Supplier.

14. Insurance

14.1 In addition to any insurance the Supplier is obliged to effect under all applicable laws, the Supplier will obtain and maintain at its own cost with reputable insurers, insurance to cover its liability under this Contract and all events that may cause loss of or damage to property or injury or death of a person in the performance of the Services and delivery of the Goods. Such insurance will at least include product and public liability insurance and transit insurance and shall include contractual liability endorsement in respect of the Supplier's obligations to indemnify Sigma under these purchase terms.

14.2 Upon request, the Supplier must provide to Sigma within 5 Business Days a certificate of currency and statement of insurance, including the date of the policy, for any of the policies referred to in this clause 14 which are held by the Supplier.

15. Liability and indemnities

15.1 The Supplier agrees always to indemnify Sigma against all liabilities, losses, damages, costs and expenses that Sigma may sustain or incur, directly or indirectly, due to:

- (a) the provision of, or omission or failure to provide, or error or defect in, the Goods or Services;
- (b) any breach of the warranties given by the Supplier under the Contract or any other breach of the Contract by the Supplier (including a breach in respect of which Sigma exercises an express right to terminate the Contract);
- (c) any wilful, unlawful, dishonest or negligent act or omission of the Supplier or the Supplier Personnel;
- (d) any loss of or damage to any property or injury to or death of any person caused or contributed to by the Supplier or the Supplier Personnel; and
- (e) any claim that the use or supply of the Goods, Deliverables or the results of the Services infringes the intellectual property rights of any person.

15.2 Each indemnity described in this clause 15 is a continuing obligation separate and independent from the Supplier's other obligations and survives termination of the Contract.

15.3 Sigma shall not be liable to the Supplier for any consequential, indirect or incidental loss, loss of profits, lost production, loss of anticipated savings and loss of opportunity arising from or about the performance or non-

- performance of Sigma's obligations under the Contract howsoever arising. The total liability of Sigma to the Supplier arising out of, under or about any other loss or damage arising under or about this Contract (but excluding Sigma's liability to pay the Supplier the Purchase Price under the Contract), is limited, in aggregate, to 10% of the Price.
- 15.4 The Supplier must notify Sigma of any claim arising under or about this Contract prior to (a) making its last claim for payment of the Purchase Price under the Contract; or (b) 6 months following last delivery of the Goods and/or Services, whichever occurs earlier. If the Supplier fails to give notice as required by clause 15.4, the Supplier releases Sigma from all liability about the claim and the basis for it.
- 16. Compliance with laws**
- 16.1 The Supplier must comply with all relevant work health and safety, environmental and workers' compensation legislation including all acts, regulations, codes of practice and Australian standards. Without limiting the Supplier's obligations under relevant legislation relating to the supply of the Goods and/or Services, in all dealings related to the Purchase Order, the parties agree to:
- communicate openly with each other and co-operate in achieving the procurement's objectives; and
 - act honestly and ethically; and
 - comply with reasonable commercial standards of fair conduct; and
 - consult, co-operate and co-ordinate activities to identify and address any overlapping regulatory responsibilities aimed at ensuring the health of workers, workplaces and end-consumers.
- 16.2 The Supplier must, upon request by Sigma, provide documented evidence of the Supplier's and its authorised manufacturer's suppliers or other service providers' compliance with any of the matters in this clause.
- 17. Disputes**
- 17.1 If any dispute, question or difference of opinion between Sigma and the Supplier arises out of or under the Contract (**Dispute**), a Party may give to the other Party a notice (**Dispute Notice**) specifying the Dispute and requiring its resolution under this clause 17.
- 17.2 If the Dispute is not resolved within 7 days after a Dispute Notice is given to the other Party, each Party must nominate one representative from its senior management to resolve the Dispute (each, a Dispute Representative).
- 17.3 If the Dispute is not resolved within 30 days of the Dispute being referred to the respective Dispute Representatives, then either Party may commence legal proceedings in an appropriate court to resolve the matter.
- 17.4 During the existence of any Dispute, the Parties must continue to perform all their obligations under the Contract without prejudice to their position in respect of such Dispute, unless the Parties otherwise agree.
- 17.5 Nothing in this Clause 17 prevents a Party from seeking any urgent interlocutory relief.
- 18. Goods and services tax**
- 18.1 Unless specifically described in the Order as 'GST inclusive', the Price does not include any amount on account of GST.
- 18.2 Where any supply to be made by the Supplier under the Contract is subject to GST:
- the consideration payable for that supply but for the application of this clause 18 (GST Exclusive Consideration) shall be increased by, and Sigma shall pay to the Supplier, an amount equal to the GST payable by the Supplier in respect of that supply (GST Amount); and
 - Sigma must pay the GST Amount to the Supplier at the same time and in the same manner as the GST Exclusive Consideration is payable or to be provided for that supply.
- 18.3 Notwithstanding any other provision of the Contract, Sigma need not make any payment for a taxable supply made by the Supplier under or in accordance with the Contract until the Supplier has given Sigma a tax invoice in respect of that taxable supply.
- 18.4 Unless the contrary intention appears, a word or expression used in this clause 16 which is defined in the GST Law has the same meaning in this clause 18.
- 19. General**
- 19.1 The Supplier may not assign or subcontract the rights and/or obligations under the Contract without Sigma's prior written consent (which may be provided or withheld at Sigma's discretion).
- 19.2 Each party must do or cause to be done all things necessary or desirable to give effect to, and must refrain from doing anything that would hinder performance of the Contract.
- 19.3 The relationship between the parties is as independent contractors, and does not involve any relationship of agency, fiduciary, employment, partnership, joint venture or association.
- 19.4 A term or part of a term of the Contract that is illegal or unenforceable may be severed from the Contract and the remaining terms or parts of the terms of the Contract continue in force.
- 19.5 A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.
- 19.6 The Contract is governed by the law applicable in Victoria, Australia, and each party submits to the jurisdiction of the courts of Victoria.
- 19.7 The Contract constitutes the entire Contract between the parties as to its subject matter and supersedes all other representations and Contracts about the subject matter of the Contract.
- 19.8 The Order may be executed in any number of counterparts and all counterparts when exchanged will be taken to constitute one document.
- 20. Interpretation**
- 20.1 In these purchase terms unless the contrary intention appears:
- Business Day** means a day that is not a Saturday, Sunday or public holiday in Melbourne, Victoria.
- Confidential Information** means all information disclosed to or otherwise acquired by the Supplier which is marked as confidential, treated by Sigma as confidential or otherwise by its nature confidential, including any information or records (or copies of information or records) relating to the business, business associates, financial affairs, products, services, suppliers or clients of Sigma, but excluding information that: (a) the Supplier creates (whether alone or jointly with any third person) independently of Sigma; or (b) is public knowledge (otherwise than as a result of a breach of confidentiality by the Supplier or any Supplier Personnel).

Deliverables means any document, software, work product or other deliverable provided or required to be provided as part of the Services under the Contract.

Delivery Date means the date or dates that the Supplier must deliver the Goods or perform the Services (or part of the Goods or part of the Services) by, as specified in the Order or otherwise notified by Sigma.

Documentation means all drawings, specifications, user manuals, notes, guides and other information relation to the operation and maintenance of the Goods, Services and/or Deliverables.

Force Majeure Event means anything outside the reasonable control of a party, provided that a strike by employees of the party or employees of a subcontractor of the party (or both) is not a Force Majeure Event unless the strike is part of an industry wide campaign that does not arise out of the dispute between that party or that subcontractor and one or more of its employees.

Goods means the goods to be supplied by the Supplier as described in the Order (if any).

GST Law has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)

Insolvency Event means any insolvency-related event that is suffered by a party, including without limitation where: (a) the party ceases to carry on business; (b) the party ceases to be able to pay its debts as they become due; (c) the party disposes of the whole or any substantial part of its assets, operations or business (other than in the case of a solvent reconstruction or reorganisation); (d) any step is taken by a mortgagee to take possession or dispose of the whole or part of the party's assets, operations or business; (e) any step is taken to enter into any arrangement between the party and its creditors (other than in the case of a solvent reconstruction or reorganisation); or (f) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator, or other like person of the whole or part of the party's assets, operation or business.

Late Delivery means a failure to deliver the Goods or perform the Services by the Delivery Date, other than because of a Force Majeure Event.

Order means an order for the Goods / Services issued by Sigma to the Supplier which may be in the form of a Sigma Purchase Order or in the case of a Standing Contract another format as agreed between the parties under the Standing Contract.

Price means the amount specified in the Order for the sale of Goods and/or provision of Services.

Services mean the services to be provided by the Supplier as described in the Order (if any).

Sigma Healthcare means Sigma Company Limited ABN 44004132923 or Sigma Healthcare Limited ABN 15088417403 and/or any of its subsidiary or other related bodies corporate (as defined in the Corporations Act 2001).

Site means the location(s) specified in the Order, where the Goods are to be delivered and/or the Services performed.

Supplier Personnel means those employees of the Supplier used to provide the Services.

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (d) a reference to time is to Victoria, Australia time;
- (e) a reference to a party includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (f) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (h) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (i) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of the Contract or any part of it;
- (j) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (k) headings are for ease of reference only and do not affect interpretation.

20.2 In these purchase terms, unless the contrary intention appears: