

# Standard Terms and Conditions

THIS IS AN IMPORTANT DOCUMENT WHICH SHOULD BE READ BEFORE ANY CONTRACT FOR THE SALE OF GOODS IS ENTERED INTO. ATTENTION IS SPECIFICALLY DRAWN TO CLAUSE 6, WHICH CONTAINS LIMITS ON AND EXCLUSIONS TO LIABILITY OF THE COMPANY TO ITS CUSTOMERS.

In these Conditions the following words shall have the following meanings:-

"the Company"	means Sunflower Medical Limited (company number 4514281)
"the Customer"	means the purchasing entity
"the Conditions"	means these Terms and Conditions
"Goods"	means any and all of the goods products or services supplied by the Company to the Customer in accordance with an Order in any format
"Order"	is as defined in condition 2.1
"Price"	is as defined in condition 3.1

## 1. Conditions Applicable

1.1 The Conditions shall apply to all commercial dealings between the Company and the Customer and all quotations given orders accepted and contracts made for the sale of Goods by the Company to the Customer to the exclusion of all other terms and conditions including any terms or conditions which the Customer may purport to apply under any purchase order confirmation of order or similar document

1.2 All orders for Goods shall be deemed to be an offer by the Customer to purchase those Goods pursuant to these Conditions Continuing instructions from the Customer to the Company confirmation of any specifications for the Goods and/or acceptance of delivery or transmission of the Goods shall be deemed conclusive evidence of the Customer's acceptance of these Conditions Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in advance in writing by a director of the Company

1.5 The Conditions comprise the entire agreement between the Company and the Customer and the Company's liability under any warranties contained in the Conditions (or otherwise implied by law) shall not be affected by any statements made to the Customer unless the same has been reduced to writing and agreed with the Customer

## 2. Orders and Approval

2.1 An "Order" is any request or instruction by the Customer for the Company to supply Goods

2.2 The Customer is wholly responsible for providing the correct specifications for the Order and for highlighting any specific purpose or any critical deadlines to be met. The Company shall not be liable for any loss whatsoever resulting from inaccurate defective or inadequate instructions from the Customer.

2.3 All Orders shall be recorded in writing. Following receipt of an order the Company will confirm acceptance in writing (and in any other way) and will thereafter commence any work as is necessary in the Company's absolute discretion in the circumstances. The Company's written acceptance will bring into effect a contract between the Company and the Customer. Any resulting amendments are to be recorded in writing.

2.4 In all respects the Customer shall determine the suitability of the Goods for the Customer's intended purpose and all Goods supplied by the Company to the Customer in accordance with an Order shall be deemed to meet the Customer's particular requirements. If the Customer or anyone acting on behalf of the Customer alters or amends the Order (as specified in clause 2.3) in any way then the Company may adjust its quoted Price accordingly.

2.6 The Customer undertakes to notify the Company without delay of any circumstances which may materially affect a contract such as changes to the Order or delay and costs or expenses arising from such circumstances shall be payable by the Customer.

2.7 Any quotation given made by the Company shall be confirmed as acceptable by the Customer during the period of 30 days from the date thereof and may be withdrawn by the Company at any time prior to such confirmation by giving written or oral notice to the Customer of its intention to withdraw the same.

2.8 Cancellation or returns by the Customer will only be agreed by the Company on the condition that the Customer shall pay a cancellation charge of 25% of the price payable, plus a collection charge deemed to be at cost, under the order so cancelled.

2.9 The Company and the Customer acknowledge and agree that any amount claimed by the Customer pursuant to clause 2.8 is a reasonable pre-estimate of the Company's genuine loss in respect of any cancellation (including loss of profit) and is not a penalty. The Company may sub-contract out the supply of Goods at its sole discretion.

## 3. Price and Payment

3.1 Unless otherwise agreed, the price shall be the Company's quoted price plus any of the following as applicable:-

3.1.1 any additional costs expenses or sums payable by the Company resulting from variations to the Order requested by the Customer after the quotation was given; or

3.1.2 any additional costs expenses or sums incurred as a result of delay caused by the Customer for whatever reason; or

3.1.3 any fluctuations caused by but not restricted to increases in costs incurred by the Company as a consequence of any increase in the cost of raw materials manufacture packaging transport or other direct or indirect costs; or

3.1.4 any costs of carriage of the Goods and/or related insurance expense and/or any and all necessary import or export licences, clearances and other consents any such costs expenses or sums shall be added to the price quoted (together referred to as "the Price") and the adjusted amount shall be invoiced to the Customer

3.2 The Price is exclusive of value added tax or other applicable sales tax which shall be due at the rate ruling on the date of the Company's invoice and shall be added to the Price together with any other statutory tax

3.3 Payment of the Price and value added tax shall be due within 30 days of the date of the Company's invoice and shall be made by the Customer without any deduction set off or counterclaim whatsoever. Time for payment shall be of the essence. In the event that the Customer defaults in the payment to the Company when payment is due and payable in accordance with the provisions of these Conditions, the Company shall have the right to cancel any and all contracts between the Company and the Customer and to suspend all further deliveries of Goods to the Customer until the default is made good

3.4 Without prejudice to any other right or remedy available to the Company against the Customer interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 4% above National Westminster Bank Plc's base rate from time to time in force and shall accrue at such a rate after as well as before any judgment if requested to do so by the Company the Customer shall pay the Price prior to delivery of the Goods and, in such circumstances, the Company shall not be required to deliver the Goods until the Price has been paid in cleared funds

3.5 If requested to do so by the Company the Customer shall pay the Price prior to delivery of the Goods and, in such circumstances, the Company shall not be required to deliver the Goods until the Price has been paid in cleared funds

3.6 No dispute arising under any contract between the Company and the Customer shall interfere with the Customer's obligation to make prompt payment in full for all Goods sold and delivered by the Company or to the Customer's order

## 4. Delivery

4.1 The Goods shall be collected by the Customer or (if the Company at its sole discretion shall decide) delivered to the Customer at the Customer's address or to such other address as the Customer shall specify in writing in advance or (if the delivery is to be made outside Great Britain) by such method and to such place as the Company shall specify in writing in advance. The risk in the Goods shall pass to the Customer upon leaving the Company's premises.

4.2 The Company will at the Customer's request use reasonable endeavours to arrange for carriage of the Goods to the Customer's address or such other address as the Company shall have been properly notified. The costs of such carriage and any insurance shall be as notified by the Company from time to time and shall be paid by the Customer in addition to the Price without any deduction set off counterclaim or other withholding whatever and shall be due on the date for payment of the Price. The carrier shall be deemed to be the Customer's agent.

4.3 Any time for delivery given by the Company its servants or its agents shall be an estimate only and although the Company shall endeavour to deliver the Goods within the period of time stated, time is not of the essence of the contract and the Company shall not be liable for any loss, costs, damage or expense caused to the Customer whether directly or indirectly by reason of the Company's failure to comply with any delivery time stated and further the Customer shall have no right to cancel any order given to the Company or refuse to accept delivery of the Company's Goods.

4.4 The Company may deliver the Goods by separate instalments. Failure of the Company to deliver any one or more of the said instalments of the Goods on the due dates shall not entitle the Customer to treat this contract as repudiated.

4.5 The Company shall not be liable for any loss or damage whatever due to failure by the Company to deliver the Goods (or any of them) promptly or at all.

4.6 Notwithstanding that the Company may have delayed or failed to deliver the Goods (or any of them) promptly the Customer shall be bound to accept delivery and to pay for the Goods in full. If the Customer fails to accept delivery, or fails to give adequate delivery instructions, the Company may (in addition to any other rights or remedies which it may have):-

(a) store the Goods until actual delivery and charge the Customer for all reasonable costs (including insurance) of storage

(b) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for any excess over the Price or charge the Customer for any shortfall below the Price.

## 5. Property in Goods Pending Payment

5.1 In spite of delivery having been made property in the Goods shall not pass from the Company until:-

5.1.1 the Customer shall have paid the Price plus value added tax in full, and;

5.1.2 no other sums whatever shall be due from the Customer to the Company

5.2 Until property in the Goods passes to the Customer in accordance with clause 5.1 the Customer shall hold the Goods and each of them on a fiduciary basis as bailee for the Company. The Customer shall store the Goods (at no cost to the Company) separate from all other goods in its possession and marked in such a way that they are clearly identified as the Company's property.

5.3 Notwithstanding that the Goods (or any of them) remain the property of the Company the Customer may sell or use the Goods in the ordinary course of the Customer's business at full market value for the account of the Company. Any such sale or dealing shall be a sale or use of the Customer's property by the Customer on the Customer's own behalf and the Customer shall deal as principal when making such sales or dealings. Until property in the Goods passes from the Company the entire proceeds of sale or otherwise of the Goods shall be held in trust for the Company and shall not be mixed with other money or paid into any overdraft bank account and shall be at all material times identified as the Company's money.

5.4 The Company shall be entitled to recover the Price (plus value added tax) notwithstanding that property in any of the Goods has not passed from the Company.

5.5 Until such time as property in the Goods passes from the Company the Customer shall upon request deliver up such of the Goods as have not ceased to be in existence or re-sold to the Company. If the Customer fails to do so the Company may enter upon any premises owned occupied or controlled by the Customer where the Goods are situated and repossess the Goods. On the making of such request the rights of the Customer under clause 5.3 shall cease.

5.6 The Customer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Company. Without prejudice to the other rights of the Company, if the Customer does so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.

5.7 The Customer shall insure and keep insured the Goods to the full price against "all risks" to the reasonable satisfaction of the Company until the date that property in the Goods passes from the Company and shall whenever requested by the Company provide a copy of the policy of insurance. Without prejudice to the other rights of the Company, if the Customer fails to do so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.

5.8 Risk in the Goods shall pass to the Customer on delivery or (if earlier) when the Company shall notify the Customer that the Goods are available for collection at its premises.

## 6. Interpretation and Liability

6.1 The Goods shall be supplied in accordance with the description and specification agreed between the Company and the Customer the final details of which shall have been confirmed in writing by the Customer.

(a) the Company "warranty" relates to any manufacturing defect or assembly of materials for the time specified, as long as the product is used (where applicable) to the set standards (e.g. CE marking and maximum working loads). Product misuse, over loading, damage and abuse are excluded.

6.2 The Company may from time to time make changes in the specification of the Goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the Goods.

6.3 The Customer shall inspect the Goods on delivery and shall within:-

(a) 7 days of delivery notify the Company in writing of any alleged damage to the Goods caused by any person other than the Customer, its agents, employees or representatives; and/or

(b) 7 days of delivery notify the Company in writing of any alleged defect or shortage in quantity or failure to comply with description and shall comply with the provisions of condition 6.5. If the Customer shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the contract and free from any defect or damage which would be apparent on a reasonable examination of the Goods and the Customer shall be deemed to have accepted the Goods.

6.4 The Customer shall notify the Company of any non-delivery within 7 days of the date of despatch (as stated on the invoice or notification that the Goods have been delivered, whichever document shall bear the earlier date). Notwithstanding the receipt by the Company of any such notice a clear signature on a carrier's delivery advice sheet shall be deemed to signify the receipt of the quantity indicated on the advice sheet.

6.5 In the event that the Customer alleges that any of the Goods are defective pursuant to condition 6.3 ("the Returned Goods"):-

(a) the Customer must give the Company the opportunity to examine the Returned Goods and investigate any complaint made;

(b) the Returned Goods must be unused and in their original packaging;

(c) the Returned Goods in question must be available for collection and photographing by a representative of the Company. If the Customer complies with the provisions of condition 6.5 and the Company agrees that the Returned Goods are defective, the Company will at its sole discretion repair or replace with a satisfactory alternative or substitute the Returned Goods or refund to the Customer the cost of the defective Returned Goods. If the Company repairs the Returned Goods or replaces them with alternative or substitute Goods, the Customer shall be bound to accept such Goods and the Company shall not be responsible or liable for any delay, damage, detriment or expense to the Customer arising from the initial delivery to the time that such Goods are repaired or replaced and in no circumstances shall the liability of the Company exceed the cost of the replacement or the price paid by the Customer for them. The Company shall be entitled to charge a restocking and collection fee in respect of any Returned Goods, which shall be in an amount notified by the Company to the Customer from time to time.

6.7 If the Customer fails to comply with any of its obligations in condition 6.5 in relation to any Returned Goods and/or the Company decides that any Returned Goods are not defective, the Customer shall indemnify the Company against all loss which the Company suffers as a result.

6.8 The Company shall be under no liability whatever to the Customer for any indirect loss and/or expense (including loss of profit) howsoever arising suffered by the Customer arising out of a breach by the Company of this contract.

6.9 In the event of any breach of any contract by the Company the remedies of the Customer shall be limited to damages. Under no circumstances (subject to condition 6.10) shall the liability of the Company exceed the Price of the Goods.

6.10 All warranties and conditions whether implied by statute or otherwise are excluded from this contract provided that nothing in this contract shall restrict or exclude liability for death or personal injury caused by the negligence of the Company or affect the statutory rights of the Customer dealing as consumer.

6.11 The Company shall not be liable for any loss damage cost detriment or expense whatsoever however arising if manufacture or delivery of the Goods is delayed or hindered by act of God governmental intervention or restriction hostilities civil commotion fire flood accident machinery breakdowns strike lock out non-delivery of goods by the Company's suppliers or any other cause or circumstance whatsoever beyond the reasonable control of the Company and on the occurrence of any of the above events the Company reserves the right to cancel this agreement or suspend delivery of the Goods to the Customer.

6.12 Complaints made by the Customer shall not be ground for the Customer to delay payment of monies due to the Company and shall not give rise to any right of set off.

6.13 Subject to condition 6.10, the Company shall not be liable to the Customer by reason of any representation (unless fraudulent) or any implied warranty, condition or other term, or any duty at common law, or under the express terms of these Conditions (or any other term or condition of the contract between the Company and the Customer) for any consequential loss or damage (whether for loss of profit or otherwise) costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the Company's negligence or that of its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their resale or use by the Customer.

## 7. Intellectual Property

7.1 "Intellectual Property" means all industrial and intellectual property rights including without limitation patents trade marks and/or service marks (whether registered or un-registered) registered designs unregistered designs and copyrights and any applications for any of the foregoing in any part of the world and the copyright in all drawings plus specifications designs and computer software and all know how (that is all information (including that comprised in or derived from data disks tapes manuals source codes flow charts catalogues and instructions) relating to services provided and/or products manufactured by the parties) and confidential information owned and used by the parties.

7.2 Subject to condition 7.4 the components contained in and the specifications and designs of the Goods including the Intellectual Property in them shall as between the parties be the property of the Company.

7.3 Where any designs or specifications have been supplied by the Customer for manufacture by or to the order of the Company then the Customer warrants that the use of those designs or specifications for the manufacture processing assembly or supply of the Goods shall not infringe the rights of any third party.

7.4 Where any specifications and designs of the Goods or any of the Goods have been provided by the Customer the Intellectual Property in them shall remain the property of the Customer. Notwithstanding the foregoing the Intellectual Property in any components created by or incorporated within the Goods shall at all times be the property of the Company.

7.5 No right or licence is granted under this contract to the Customer under any Intellectual Property right except the right to use or re-sell the Goods.

7.6 All Goods sold in retail packaging may be resold by the Customer only in the packaging supplied by the Company and in no case may any trademark other than those applied by the Company be marked on or applied in relation to the Goods.

7.7 The Customer undertakes to respect and keep confidential all confidential information whether relating to Intellectual Property rights or otherwise supplied to it during as well as after each contract with the Company.

## 8. Assignment

The Customer may not without the Company's written consent assign all or any part of its rights and obligations under this contract but the Company may licence or subcontract all or any part of its rights and obligations under this contract without the Customer's consent.

## 9. Breach of Contract and Insolvency

If the Customer fails to make payment for the Goods in accordance with this contract or commits any other breach of this contract or if any distress or execution shall be levied upon any of the Customer's goods or if the Customer offers to make any arrangement with its creditors or if any petition in bankruptcy is presented against the Customer or the Customer is unable to pay its debts as they fall due or if being a limited company a resolution or petition to wind up the Customer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver administrative receiver or manager shall be appointed over the whole or any part of the Customer's business or assets or if any petition for the appointment of an administrator is presented against the Customer or if the Customer shall suffer any analogous proceedings under foreign law all sums outstanding in respect of the Goods shall become payable immediately. The Company may in its absolute discretion and without prejudice to any other rights or remedies which it may have:-

9.1 suspend all future deliveries of Goods to the Customer and/or terminate the contract without liability upon its part; and/or

9.2 exercise any of its rights pursuant to condition 3 and/or condition 5 of these Conditions.

## 10. Cancellation

The Company may cancel this contract at any time before the Goods are delivered by giving written notice. On giving such notice the Company shall promptly repay to the Customer any sums paid in respect of the Price. The Company shall not be liable for any further loss or damage whatever arising from such cancellation.

## 11. Termination

In the event that this agreement shall be terminated for any reason then in addition to any other rights and remedies available to it the Company shall be entitled to charge for all work undertaken to that date and any costs and expenses incurred and all such sums shall be payable immediately.

## 12. Third Party Rights

For the purposes of the Contracts (Rights of Third Parties) Act 1999 this agreement is not intended to and does not give any person who is not a party to it any right to enforce any of its provisions

## 13. Export Terms

13.1 In these Conditions, "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the contract is made between the Company and the Customer. Unless the context requires otherwise, any term or expression which is defined in or given a particular meaning by the provisions of the Incoterms shall have the same meaning in these Conditions but if there is any conflict between the provisions of the Incoterms and these Conditions, the latter shall prevail.

13.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 13 shall, subject to any special terms in writing between the Company and the Customer, apply notwithstanding any other provision of these Conditions.

13.3 The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination including, but not limited to, obtaining all necessary import or export licences, clearances and other necessary consents and for payment of any duties on the Goods.

13.4 Unless otherwise agreed in writing between the Customer and the Company, the Goods shall be delivered ex works and from that point shall be at the risk of the Customer and the Company shall be under no obligation to give notice under Section 32(5) of the Sale of Goods Act 1979.

13.5 The Company shall have no liability for any claim in respect of damage to the Goods during transit.

13.6 The Customer shall pay for the Goods in cash or cleared funds in advance of the date of shipment. If the Customer fails to do so, the Company may withhold delivery, reject the order in question or terminate the contract if partial deliveries have occurred, as applicable and at its sole discretion. In such circumstances, the Customer will indemnify the Company against all losses, storage charges, insurance and other costs or damages arising out of any delay or cancellation of delivery.

## 14. General

14.1 If any term or provision of this agreement shall be found to be unenforceable for any reason whatsoever then this agreement shall be construed as if such term or provision was specifically excluded from it.

14.2 The waiver by the Company of any breach of any of the terms of this agreement shall not prevent the subsequent enforcement of that term and shall not be deemed to be a waiver of a subsequent breach.

14.3 This agreement shall be governed by and construed in accordance with English law and the Company and the Customer shall submit in all matters or disputes arising out of this agreement to the exclusive jurisdiction of the courts of law of England.

14.4 Unless the context otherwise requires the singular includes the plural and vice versa references to persons include references to firms companies or corporations and vice versa and references in the masculine gender include references to the feminine or neuter genders and vice versa.

14.5 The clause headings do not form part of this agreement and shall not be taken into account in its construction or interpretation.

14.6 Where the Customer is two or more persons then the liability of those persons shall be joint and several.