

TERMS AND CONDITIONS OF SALES AND SERVICES (ENGLISH)

UNLESS OTHERWISE EXPRESSLY AGREED IN WRITING, ALL SALES AND SERVICES ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. **GENERAL.**
 - 1.1. **Epredia Holdings Limited or any of its subsidiaries ("Seller" or "Our" or "Us" or "We")** hereby offers for sale to the buyer and/ or offers services to customer ("**Company**") the products listed on the face hereof (the "**Products**"). These Terms and Conditions (hereafter "**Agreement**") apply to all sales of products and/ or services provided by Seller notwithstanding any conflicting, contrary or additional terms and conditions in any Order or other communication from Company. No such conflicting, contrary or additional terms and conditions shall be deemed accepted by Seller unless and until Seller expressly confirms acceptance in writing.
 - 1.2. Company agrees to accept and be bound by the terms and conditions set forth herein. Company's receipt of Products or Seller's commencement of the services provided hereunder will constitute Company's acceptance of this Agreement.
 - 1.3. This is the complete and exclusive statement of the contract between Seller and Company with respect to Company's purchase of the Products. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless in writing and signed by Seller and Company. Seller's failure to object to terms contained in any subsequent communication from Company will not be a waiver or modification of the terms set forth herein. All orders are subject to acceptance in writing by an authorized representative of Seller.
 - 1.4. Seller and Company are each singly a "Party" and together the "Parties" of this Agreement.
2. **PRICE.**
 - 2.1. All prices quoted by Seller or Seller's representatives are valid for thirty (30) days, unless otherwise stated in writing.
 - 2.2. All prices for the Products will be as specified by Seller or; if no price has been specified or quoted, will be Seller's price in effect at the time of shipment.
 - 2.3. All prices are subject to adjustment on account of specifications, quantities, raw materials, cost of production, shipment arrangements or other terms or conditions which are not part of Seller's original price quotation.
3. **TAXES AND OTHER CHARGES.**
 - 3.1. Prices for the Products exclude all sales, value added and other taxes and duties imposed with respect to the sale, delivery, or use of any Products covered hereby, all of which taxes and duties must be paid by Company.
 - 3.2. If Company claims any exemption, Company must provide a valid, signed certificate or letter of exemption for each respective jurisdiction.
4. **TERMS OF PAYMENT.**
 - 4.1. Seller may invoice Company for the price and all other charges payable by Company in accordance with the terms on the face hereof.
 - 4.2. Payment terms shall be subject to Company's credit application approval.
 - 4.3. If Company fails to pay any amounts within ten (10) days (grace period) of the due date of payment, we may suspend delivery of any Order or any balance thereof until payment is made or terminate delivery of any Order or any remaining balance thereof by providing written notice of termination to you within seven (7) calendar days of the expiration of the grace period. In addition, Company shall pay Seller interest thereon at a periodic rate of one and one-half percent (1.5%) per month (or, if lower, the interest to be applied shall be the highest rate permitted by law), together with all costs and expenses (including without limitation reasonable attorneys' fees and disbursements and court costs) incurred by Seller in collecting such overdue amounts or otherwise enforcing Seller's rights hereunder. This shall be in addition to, and not in limitation of, any other rights and/ or remedies to which Seller is or may be entitled at law or in equity.
 - 4.4. Unless expressly stated otherwise in our order confirmation Seller reserves the right to require from Company full or partial payment in advance, or other security that is satisfactory to Seller, at any time that Seller believes in good faith that Company's financial condition does not justify the terms of payment specified. Payment of products shall be made without offset or deduction.
 - 4.5. Service contracts shall be invoiced at the start of the period and shall be payable as per the agreement made under clause 4.2.
 - 4.6. All payments shall be made in the currency stated on the invoice.
5. **DELIVERY; CANCELLATION OR CHANGES BY COMPANY.**
 - 5.1. The Products will be shipped to the destination specified by Company, Incoterms 2020 FCA Seller's shipping point as further defined in the Order confirmation, unless otherwise quoted.
 - 5.2. Seller will have the right, if required, to make partial shipments of the Products.
 - 5.3. Seller reserves the right to stop delivery of Products in transit and to withhold shipments in whole or in part if Company fails to make payment to Seller when due or otherwise fails to perform its obligations hereunder
 - 5.4. All shipping dates are estimates shipping dates only, and Seller will not be liable for any loss or damage resulting from any delay in delivery or failure to deliver which is due to any cause beyond Seller's reasonable control.
 - 5.5. In the event of a delay due to any cause beyond Seller's reasonable control, Seller reserves the right to terminate the order or to reschedule the shipment within a reasonable period of time; Company will not be entitled to refuse delivery or otherwise be relieved of any obligations as the result of such delay.
 - 5.6. In case of delay due to cause within Seller's control of more than thirty (30) calendar days of the agreed delivery date, Company may terminate the applicable Order in whole or in part (only as to those Products affected by the delay) by providing written notice of termination to Seller within the (10) calendar days from the notice.
 - 5.7. For any Orders in process with confirmed delivery date, which thereafter are changed by Company, Seller is authorised to place in storage at Company's risk and expense and for Company's account. Orders in process may be cancelled only with Seller's written consent and upon payment of Seller's cancellation charges.
 - 5.8. For Company to return goods that are in transit or were delivered by Seller, a written request by Company shall be provided and Seller shall review such request. If applicable, Seller shall approve the return of goods by providing an RMA (Return Material Authorization) number. Seller shall be entitled to charge a restocking fee ("Restocking Fee") of minimum 15% and/ or for custom manufactured goods, the occurred costs shall be charged to Company, and Company will be responsible for the freight incurred for return of product. Goods returned without an RMA number shall not be accepted or refunded by Seller.
 - 5.8.1. Restock Fee aging shall be based on the original delivery and return shipping date:
 - 5.8.1.1. Returned within 30 days – 15% restock fee
 - 5.8.1.2. Returned 30-60 days – 25% restock fee
 - 5.8.1.3. Returned 61-90 days – 50% restock fee
 - 5.8.1.4. Returns requested for products beyond 90 days – no credit issued
 - 5.9. Orders placed may not be changed except with Seller's written confirmation. Any cancellation on processed Orders shall be subject to a cancellation fee of minimum 15% or for custom manufactured goods, the occurred costs shall be charged to Company.
6. **TITLE AND RISK OF LOSS.**
 - 6.1. Notwithstanding the trade terms indicated above and subject to Seller's right to stop delivery of Products in transit risk of loss of the Products will pass to Company according to the stipulated INCOTERMS.
 - 6.2. Nonetheless, title to Products delivered shall remain vested in Seller and shall not pass to Company until the goods have been paid for in full. However title to any software incorporated within or forming a part of the Products shall completely and at all times remain with the Seller or the licensor(s) thereof, as the case may be. If Company fails to pay any invoice within fourteen (14) calendar days of the due date of payment, Seller may take the Products back that are covered by the invoice at Company's cost. Company must insure all goods delivered to their full replacement value until title to the goods has passed to Company.
7. **WARRANTY**
 - 7.1. **FOR THE SALE OF PRODUCTS.**
 - 7.1.1. Seller warrants that the Products will operate or perform substantially in conformance with Seller's published specifications and will be free from defects in material and workmanship, when subjected to normal, proper and intended usage by properly trained personnel, for the period of time set forth in the product documentation, published specifications or package inserts.
 - 7.1.2. If a period of time is not specified in Seller's product documentation, published specifications or package inserts, the warranty period shall be twelve (12) months from the date of installation. Where confirmation of instrument installation is not provided within six (6) months of shipment, the warranty will be twelve (12) months from the date of shipment. (the "**Warranty Period**").
 - 7.1.3. Seller agrees during the Warranty Period, to repair or replace, at Seller's option, defective Products so as to cause the same to operate in substantial conformance with said published specifications; provided that Company shall (a) promptly notify Seller in writing upon the discovery of any defect,

which notice shall include the product model and serial number (if applicable) and details of the warranty claim; and (b) after Seller's review, Seller will provide Company with service data and/or a Return Material Authorization ("RMA"), which may include biohazard decontamination procedures and other product-specific handling instructions, then, if applicable, Company may return the defective Products to Seller on Seller's cost if proven defective. Replacement parts may be new or refurbished, at the election of Seller. All replaced parts shall become the property of Seller. Shipment to Company of repaired or replacement Products shall be made in accordance with the Delivery provisions of the Seller's Terms and Conditions of Sale. Consumables are expressly excluded from this warranty. If Seller elects to repair defective medical device instruments, Seller may, in its sole discretion, provide a replacement loaner instrument to Company as necessary for use while the instruments are being repaired. Notwithstanding the foregoing, Products supplied by Seller that are obtained by Seller from an original manufacturer or third party supplier are not warranted by Seller, but Seller agrees to assign to Company any warranty rights in such Product that Seller may have from the original manufacturer or third party supplier, to the extent such assignment is allowed by such original manufacturer or third party supplier. Company will be entitled to cancel the Order or to reduce the purchase price in accordance with the statutory provisions applicable only if the subsequent performance by Seller has failed three times or is unreasonable and the defect complained of is not merely a minor defect.

- 7.1.4. In no event shall Seller have any obligation to make repairs, replacements or corrections required, in whole or in part, as the result of (i) normal wear and tear, (ii) accident, disaster or event of force majeure, (iii) misuse, fault or negligence of or by Company, (iv) use of the Products in a manner for which they were not designed, (v) causes external to the Products such as, but not limited to, power failure or electrical power surges, (vi) improper storage and handling of the Products by Company or (vii) use of the Products in combination with equipment or software not supplied by Seller. If Seller determines that Products for which Company has requested warranty services are not covered by the warranty hereunder, Company shall pay or reimburse Seller for all costs of investigating and responding to such request at Seller's then prevailing time and materials rates. If Seller provides repair services or replacement parts that are not covered by this warranty, Company shall pay Seller therefor at Seller's then prevailing time and materials rates. Any installation, maintenance, repair, service, relocation or alteration to or of the products performed by any person or entity other than Seller without Seller's prior written approval, or any use of replacement parts not supplied by Seller, shall immediately void and cancel all warranties with respect to the affected products. The obligations created by this warranty to repair or replace a defective product shall be the sole remedy of Company in the event of a defective product. Except as provided herein, Seller disclaims all other warranties, whether express or implied, oral or written, with respect to the products, including without limitation all implied warranties of merchantability or fitness for any particular purpose. Seller does not warrant that the products will accomplish any other particular result than the ones stated in the official factory specifications.

7.2. FOR SERVICES PROVIDED BY SELLER.

The following shall not be covered under Seller's warranty:

- 7.2.1. **Exceptional Causes of Equipment Malfunction.** Repair of equipment malfunction for the following abnormal conditions is not covered by this Agreement and will be performed by Seller at its current service rate for travel, labor and parts: (i) Shipping damage incurred en route to Company's site or because of moving equipment. Seller will promptly provide a cost estimate for repairs to the consignee for filing claims to carriers for shipping damage. (ii) Flood, lightning, earthquake, tornado, hurricane or fire, bombing, armed conflict, malicious mischief, sabotage or other natural or man-made disasters. (iii) Physical abuse, misuse, sprinkler damage, electrical surge or abnormal power variation. (iv) Repairs, maintenance, or modifications made by anyone other than Seller trained personnel or without Seller's supervision and/or approval. (v) Relocation and reinstallation of equipment are not covered under this Agreement; although upon request Seller will supervise the removing, crating, relocation and reinstallation of equipment at Seller's current service rate.
- 7.2.2. **Maintenance or replacement of media** (i.e. plotter supplies, etc.) whatever the reason for loss, failure or damage is not covered by this Agreement.
- 7.2.3. **Non-Seller equipment.** The service of non-Seller material or equipment is not covered under this Agreement. This includes non-Seller material or equipment purchased for engineering specials.

7.3 FOR SERVICE MAINTENANCE AND SPARES

- 7.3.1 All maintenance and repair work must be performed by an Epreia-certified and trained technician. If maintenance, repair, or the installation of spare parts is performed by non-certified third parties, the voluntary manufacturer's warranty for the device will be completely void. Epreia provides spare parts for purchase. These parts are subject to the statutory warranty, which for companies is limited to one year from delivery of the goods. No further warranty is provided for the spare parts. The installation of spare parts by the customer or by non-certified third parties is entirely at their own risk. Epreia assumes no liability for any resulting damage to the device, consequential damage, or impairment of the safety, performance, or conformity of the device. Furthermore, the independent installation of spare parts or their installation by non-certified technicians will completely void the warranty for the entire device. This applies regardless of whether an existing service contract with Epreia exists for the device. Maintenance or repair by non-certified third parties may also lead to the immediate termination of an existing service contract.

8. INDEMNIFICATION.

- 8.1. **By Seller.** Seller agrees to indemnify, defend and save Company, its officers, directors, and employees from and against any and all damages, liabilities, actions, causes of action, suits, claims, demands, losses, costs and expenses (including without limitation reasonable attorney's fees) ("Indemnified Items") for (i) injury to or death of persons or damage to property to the extent caused by the negligence or willful misconduct of Seller, its employees, agents or representatives or contractors in connection with the performance of services at Company's premises under this Agreement and (ii) claims that a Product infringes any valid patent, copyright or trade secret; provided, however, Seller shall have no liability under this Section to the extent any such Indemnified Items are caused by either (i) the negligence or willful misconduct of Company, its employees, agents or representatives or contractors, (ii) by any third party, (iii) use of a Product in combination with equipment or software not supplied by Seller where the Product would not itself be infringing, (iv) compliance with Company's designs, specifications or instructions, (v) use of the Product in an application or environment for which it was not designed or (vi) modifications of the Product by anyone other than Seller without Seller's prior written approval. Company shall provide Seller prompt written notice of any third party claim covered by Seller's indemnification obligations hereunder. Seller shall have the right to assume exclusive control of the defence of such claim or, at the option of the Seller, to settle the same. Company agrees to cooperate reasonably with Seller in connection with the performance by Seller of its obligations in this Section. Notwithstanding the above, Seller's infringement related indemnification obligations shall be extinguished and relieved if Seller, at its discretion and at its own expense (a) procures for Company the right, at no additional expense to Company, to continue using the Product; (b) replaces or modifies the Product so that it becomes non-infringing, provided the modification or replacement does not adversely affect the specifications of the Product; or (c) in the event (a) and (b) are not practical, refund to Company the amortized amounts paid by Company with respect thereto, based on a five (5) year amortization schedule. The foregoing indemnification provision states Seller's entire liability to Company for the claims described herein.
- 8.2. **By Company.** Company shall indemnify, defend with competent and experienced counsel and hold harmless Seller, its parent, subsidiaries, affiliates and divisions, and their respective officers, directors, shareholders and employees, from and against any and all damages, liabilities, actions, causes of action, suits, claims, demands, losses, costs and expenses (including without limitation reasonable attorneys' fees and disbursements and court costs) to the extent arising from or in connection with (i) the negligence or willful misconduct of Company, its agents, employees, representatives or contractors; (ii) use of a Product in combination with equipment or software not supplied by Seller where the Product itself would not be infringing; (iii) Seller's compliance with designs, specifications or instructions supplied to Seller by Company; (iv) use of a Product in an application or environment for which it was not designed; or (v) modifications of a Product by anyone other than Seller without Seller's prior written approval.

9. SOFTWARE.

- 9.1. With respect to any software products incorporated in or forming a part of the Products hereunder, Seller and Company intend and agree that such software products are being licensed and not sold, and that the words "purchase", "sell" or similar or derivative words are understood and agreed to mean "license", and that the word "Company" or similar or derivative words are understood and agreed to mean "licensee". Notwithstanding anything to the contrary contained herein, Seller or its licensor, as the case may be, retains all rights and interest in software products provided hereunder. Seller hereby grants to Company a royalty-free, non-exclusive, nontransferable license, without power to sublicense, to use software provided hereunder solely for Company's own internal business purposes on the hardware products provided hereunder and to use the related documentation solely for Company's own internal business purposes. This license terminates when Company's lawful possession of the hardware products provided hereunder ceases, unless earlier terminated as provided herein. Company agrees to hold in confidence and not to sell, transfer, license, loan or otherwise make available in any form to third parties the software products and related documentation provided hereunder. Company may not disassemble, decompile or reverse engineer, copy, modify, enhance or otherwise change or supplement the software products provided hereunder without Seller's prior written consent. Seller will be entitled to terminate this license if Company fails to comply with any term or condition herein. Company agrees, upon termination of this license, immediately to return to Seller all software products and related documentation provided hereunder and all copies and portions thereof. Certain of the software products provided by Seller may be owned by one or more third parties and licensed to Seller. Thus, Seller and Company agree that such third parties retain ownership of and title to such software products. Seller does not maintain or manage any personal health information and Company is required to delete personal health or other sensitive information before Seller offers support. The warranty and indemnification provisions set forth herein shall not apply to software products owned by third parties and provided hereunder.

10. LIMITATION OF LIABILITY

- 10.1 Seller Limitation of liability:

10.1.1 Sale of Products: Notwithstanding anything to the contrary contained herein, the liability of Seller under these terms and conditions for the sale of Products (whether by reason of breach of contract, tort, indemnification, or otherwise, but excluding liability of Seller for breach of warranty (the sole remedy for which shall be as provided under section 7 above) shall not exceed an amount equal to the lesser of (A) the total purchase price theretofore paid by Company to Seller with respect to the product(s) giving rise to such liability or (B) one million Euros (EUR 1,000,000) notwithstanding anything to the contrary contained herein, in no event shall either Party be liable for any indirect, special, consequential or incidental damages (including without limitation damages for loss of use of facilities or equipment, loss of revenue, loss of data, loss of profits or loss of goodwill). Seller will assume unlimited liability to the extent that Seller has expressly assumed a guaranty or a procurement risk, in the case of a culpable injury to the life, body or health of any person, for claims under the Product Liability Directive or corresponding national laws, and for other willful or grossly negligent breaches of duty by Seller.

10.1.2 Services: Seller's total liability hereunder for services or any other support by the Seller, shall not exceed the amount paid for services or support by Company to Seller for the Three (3) months immediately preceding the occurrence giving rise to any claim by Company. In no event shall either Party have any liability to the other Party for any indirect, special, punitive, incidental or consequential damages arising out of any warranty or covenant contained herein or otherwise, including without limitation, damages for loss of property or equipment, loss of profits or revenue.

11. EXPORT RESTRICTIONS.

- 11.1 It is the obligation of the Company to obtain and maintain at its own expense, any governmental consents, authorisations, approvals, filings permits or licenses required for it to export the Goods and for each of the Company and the Seller to exercise its rights and to discharge its obligations under the contract including, without limitation, all consents and filings with any non-United States governmental body when applicable.
- 11.2 The Company acknowledges that the goods and all related technical information, documents and materials may be subject to export controls under the U.S. Export Administration Act of 1969, as amended, and the rules and regulations promulgated from time to time thereunder and under the laws

- of other countries including the United Kingdom (collectively, the "Export Act"), restricting exports and re-exports of software media, technical data and direct products of technical data.
- 11.3 The Company (i) shall comply strictly with all legal requirements established under the Export Act; (ii) shall cooperate fully with the Seller in any official or unofficial audit or inspection related to the Export Act, and (iii) shall not distribute or supply the Goods to any person if there is reason to believe that such person intends to export, re-export or otherwise take such goods to, or use such goods in any country in violation of the Export Act. Without limitation to the foregoing, the Company agrees to commit no act that, directly or indirectly, would violate any United States law, regulations, treaty or agreements, to which the United States adheres or complies or those of any other country including the United Kingdom, relating to the export or re-export of any goods.
- 11.4 Company agrees not to export or re-export of Goods or any part thereof, directly or indirectly, without first obtaining permission to do so from the United States Office of Export Administration and other appropriate governmental (including the Governments of other countries including the United Kingdom) agencies, into any of those countries listed from time to time at the time of any shipment of the Goods in Title 15 of the code of Federal Regulations of the United States of America (or any successor or additional provision) as "prohibited or restricted" countries or any other country to which such exports or re-exports may be restricted (collectively, the "Prohibited Countries"). The Company agrees not to distribute any Goods or any part thereof to any person if the Company has reason to believe that such person intends to export, re-export or otherwise take the same to, or to use the same in, any of the Prohibited Countries; and the Company agrees to seek reasonable written assurances in the form of binding covenants from Company as may from time to time be requested by the Seller.
- 11.5 The Company agrees to indemnify and to hold the Seller harmless from, or in connection with, any violation of the provisions of this clause 11 by the Company or its customers.
12. **Exclusion (Applicable to Services provided by Seller)**
- 12.1. Any scope of work not included in a signed Quotation will be quoted and billed on a "Time and Material" basis. Seller shall invoice Company for such work, as incurred, and Company shall pay such invoices within the time specified thereon.
- 12.2. **Specific Exclusions:** The following services, as listed below, are not included in the Quotation (this work will be considered an "Exclusion" to this Agreement and may be quoted and billed on a "Time and Material" basis):
- (a) Repair of damage not caused by Seller including without limitation, damage resulting from accident, negligence, transportation, neglect or misuse, failure or fluctuation of electrical or other power, telephone equipment or communication lines failure, use of parts which do not adhere to Seller's approved specifications, modifications to software, or causes other than ordinary use.
 - (b) Work required as a result of maintenance or repair performed by anyone other than authorized Seller personnel or as a result of improper operation, repair, maintenance, or modification by Company or other third-party.
 - (c) Service on equipment connected to other devices or service on equipment that is not reasonably physically accessible.
 - (d) Work requested on account of damages arising from a catastrophe such as wind, flood, lightning, earthquake or other such phenomenon.
 - (e) Work resulting from changes in specification of the supplied equipment / system.
 - (f) Work resulting from changes in equipment / system configuration required as a result of Company's modification of plant operation.
 - (g) Work requested by the Company for rearrangement, such as additional wiring, rewiring, moving other equipment or cables, relocating equipment or repairing a previously prepared site.
 - (h) Electrical or mechanical work external to the equipment.
 - (i) Adding or removing accessories, attachments, or other devices not supplied by Seller.
 - (j) Painting, refinishing, or furnishing materials for any of the foregoing.
 - (k) Work requested by the Company to diagnose or identify a corrective action, the source of which is not attributable to Seller or to the supplied equipment / system.
 - (l) If the work of a Seller employee is postponed or suspended by Company or is delayed or does not proceed with reasonable dispatch, due to no fault of Seller, Seller may withdraw the person or return another service representative to the job when needed and available, and any additional costs (including travel time and expenses) incurred by Seller because of this will be an additional charge to the Company.
13. **Company Responsibilities (Applicable to Services provided by Seller)**
- 13.1. Company agrees to reasonably cooperate with Seller in the performance of the Services, including, without limitation, providing Seller with sufficient and timely access to facilities, information, and personnel of Company in accordance with Company's then-current access internal policies, including the recovery by Seller of any diagnostic or test equipment, documentation or other items used by Seller in the performance of the Services. In addition, Company shall be responsible for the accuracy and completeness of all data and information that it provides or causes to be provided to Seller.
14. **Access to Company Facilities (Applicable to Services provided by Seller)**
- 14.1. When applicable, Company shall allow Seller, at no charge, to (a) full and free access to all equipment specified under this Agreement and any and all associated peripheries; (b) to use necessary machines, communications facilities and the like; and (c) to use other reasonable facilities, including without limitation secure storage space and a designated work area with adequate heat and light.
15. **Confidential Information.**
- 15.1. Confidential Information. All non-public information disclosed by either Party to the other Party in connection with this Agreement ("Confidential Information"), shall be used solely for sale, installation, operation, maintenance, or support of the specified equipment, software, and Services furnished under this Agreement only, and shall be protected by the recipient from disclosure to any third party, other than employees and professional advisors on a need-to-know basis who are bound by obligations of nondisclosure and limited use at least as stringent as those contained herein, with the same degree of care as it normally takes to protect its own confidential and proprietary information, but in any event no less than reasonable steps, to preserve the confidentiality of the Confidential Information disclosed.
- 15.2. A Party may disclose Confidential Information to the extent required by law. However, a Party must give the discloser prompt notice and make a reasonable effort to obtain a protective order. No obligation of confidentiality applies to any Information that a Party: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without obligations of confidentiality from a third party. No obligation of confidentiality applies to any Confidential Information that is, or becomes, publicly available without breach of this Agreement. Each Party's obligations hereunder shall survive for a period of five (5) years after receipt of Information hereunder from the discloser, except as otherwise mutually agreed upon by the Parties.
- 15.3. NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY NATURE WHATSOEVER WITH RESPECT TO ANY INFORMATION FURNISHED TO THE OTHER PARTY. ANY INFORMATION EXCHANGED UNDER THIS AGREEMENT IS PROVIDED "AS IS."
16. **MISCELLANEOUS.**
- 16.1. **Delegation.** Company may not delegate any duties nor assign any rights or claims hereunder without Seller's prior written consent, and any such attempted delegation or assignment shall be void.
- 16.2. **Choice of Law.** The rights and obligations of the parties hereunder, and any dispute (including noncontractual disputes or claims) under this Agreement shall be governed by and construed in accordance with the laws of the country where Seller has its registered seat, without regard to conflicts of law principles. Both parties waive any right they may have under applicable law or otherwise to a right to a trial by jury. Any action arising under this Agreement must be brought within one (1) year from the date that the cause of action arose.
- 16.3. **Exclusions.** The application to this Agreement of the U.N. Convention on Contracts for the International Sale of Goods is hereby expressly excluded.
- 16.4. In the event that any one or more provisions contained herein shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall remain in full force and effect, unless the revision materially changes the bargain.
- 16.5. **Waiver.** Seller's failure to enforce, or Seller's waiver of a breach of, any provision contained herein shall not constitute a waiver of any other breach or of such provision.
- 16.6. **Proprietary Information.** Company agrees that all pricing, discounts and technical information that Seller provides to Company are the confidential and proprietary information of Seller. Company agrees to:
- 16.6.1. keep such information confidential and not disclose such information to any third party, and
 - 16.6.2. use such information solely for Company's internal purposes and in connection with the Products supplied hereunder. Nothing herein shall restrict the use of information available to the general public.
- 16.7. **Notices.** Any notice or communication required or permitted hereunder shall be in writing and shall be deemed received when personally delivered or three (3) business days after being sent by certified mail, postage prepaid, to a party at the address specified herein or at such other address as either party may from time to time designate to the other.
- 16.8. **Training and Samples.** Seller may, in its sole discretion, provide:
- 16.8.1. applicable Product training to Company or its employees, or
 - 16.8.2. samples of Products to Company to a reasonable extent. Company shall not use such samples to provide care to patient.
- 16.9. **Rights of Seller.** Seller reserves the right, without notice to the Company to amend the specification if required by any applicable statutory or regulatory requirements or to make any changes in the specification which are required to conform with any applicable safety or other statutory requirements, or, where the goods are supplied in accordance with a specification supplied by Seller, which do not materially affect their quality or performance, even if the Contract has already been concluded.
- 16.10. **Obligation of Company to inspect delivered Product.** Company must inspect the Products delivered upon receipt. With regard to defects identifiable during an inspection, Products are deemed to be accepted by Company after five (5) working days of the delivery of the Products. Company shall have five (5) working days after delivery of the Products, to raise any issue in written notice rejecting the Product specifying the reasons for its rejection. Defects that could not be detected during an incoming inspection and only become apparent later must be reported within five (5) days as of their discovery.
- 16.11. **Force Majeure.** Either party shall be excused from any delay or failure in performance if caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, strikes, lock-outs or other serious labor disputes, riots, earthquakes, floods, explosions or other acts of nature, embargoes, rationing, pandemic, epidemic, etc. The obligations and rights of the Party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. When such events have abated, the Parties' respective obligations shall resume. In the event the interruption of the excused party's obligations continues for a period in excess of thirty (30) calendar days, either party shall have the right to terminate the applicable contract(s) of sale and/or services, without liability, upon thirty (30) calendar days' prior written notice to the other Party.