

These Terms and Conditions (collectively, these **Terms**) apply to all sales of medical equipment or consumable products (collectively, the **Products**) by Optimed Technologies Pty Ltd (**Optimed Technologies**), to the customer as set out in the Optimed Technologies Account Application Form (**Customer**). Optimed Technologies will only supply Products under an agreement consisting of the Optimed Technologies Account Application Form, these Terms and a relevant purchase order (**PO**), (the **Contract**). These Terms override and apply in substitute of any terms or conditions provided by the Customer and may only be varied by special conditions agreed to by Optimed Technologies expressly setting out the relevant provision of these Terms to be varied. Where there is an inconsistency between a PO and these Terms, these Terms prevail to the extent of the inconsistency. The Contract will form the complete understanding between the parties relating to the Products supplied to the Customer.

- 1. Product Purchase and Prices:** The Customer, will provide a written PO for supply of all Products. Optimed Technologies will provide confirmation of acceptance of the PO which will set out the Products and prices for the Products. Upon such confirmation being provided by Optimed Technologies, a Contract will be deemed to have been entered between the Customer and Optimed Technologies. Any taxes will be expressly noted as taxes. Products are subject to availability.
- 2. Packaging and Shipment:** Optimed Technologies will pack and ship Products. If the Customer requires special packaging or shipping, this must be noted in the PO and the additional costs will be added to the Customer's invoice. The Customer shall be responsible to check each shipment upon delivery for total count and condition. The Customer shall report to Optimed Technologies any shortage or damage within 48 hours after the date of delivery. Following that period, the Customer will be deemed to have accepted the Products.
- 3. Delivery Timeframes:** Delivery dates and timeframes indicated on any relevant PO or as otherwise provided by Optimed Technologies, are estimates only and may be extended from time to time by Optimed Technologies. In the event of a delay Optimed Technologies will notify the Customer as soon as practicable after it becomes aware of the delay in the supply of the Products.
- 4. Property of Products:** Until such time as payment in full has been received by Optimed Technologies, title in the goods shall remain with Optimed Technologies, and until such payment is received by Optimed Technologies, the Customer must ensure the Products are kept in good condition and insured against loss or damage for their full value. Risk will pass at such time that the Products are either delivered to or collected by the Customer.
- 5. Cancellation:** Once a PO has been accepted by PO, the Customer can not cancel or modify the PO.
- 6. Return Policy:** The Customer must not return any Product without the prior written authorisation of Optimed Technologies, in its sole discretion. The Customer may request such authorisation from Optimed Technologies Customer Service via email info@optimedtech.com. If Optimed Technologies approves the return, it will provide a completed Return Authorisation Form (**RA**). The Customer may only return those items outlined on the RA. The Customer may be charged a restocking fee (excluding warranty items) at the discretion of Optimed Technologies. The restocking fee will be communicated at the time of request to return. Products that have been opened, used, damaged, blemished, custom etched, custom made, discontinued, or altered, will not be accepted for return at any time.
- 7. Product Warranty:** All Products supplied by Optimed Technologies are covered by such warranties as are specified by the manufacturer and supplied subject to the product specifications set out by the manufacturer. Manufacturer warranties for reusable products are only valid when the reusable products are used under normal conditions for their intended purposes. Manufacturer warranties for disposable, pre-packaged, single-use sterile Products are only valid until the expiration date noted on the Product's packaging. Manufacturer warranties do not cover defects caused by normal wear, failure to follow instructions (IFU) or misuse, abuse, and mishandling of the relevant Products. On discovery of any defect in a Product, the Customer must immediately notify Optimed Technologies in writing of such defect. The Customer must not carry out any repair, rectification or remedial work on Products without first

obtaining the written consent of Optimed Technologies to do so. To the maximum extent permitted by law, the liability of Optimed Technologies, its affiliates and related entities, servants, employees, and agents under this Agreement in respect of the Product's is limited to (at Optimed Technologies' option):

- (A) the replacement of the Product;
- (B) the repair of the Product;
- (C) the payment of the cost of replacing the Product; or
- (D) the payment of the cost of having the Product repaired.

8. **Customer Warranties:** The Customer warrants that it will comply, and procure its representatives, agents and employees to comply with all Product instructions, manuals or procedures as issued by the relevant manufacturer and laws, regulations, code and standards, including in relation to health and safety standard. The Customer warrants that the any representatives, agents and employees using the Products will be trained and qualified to do so.
9. **Payment Terms:** Invoices must be paid by the Customer within 30 days from the date of invoice or by the date specified on the relevant invoice (whichever is earlier). Optimed Technologies reserves the right to charge interest at the rate of 8% per annum on any amounts not paid by the Customer within the relevant timeframe.
10. **Indemnity:** The Customer must indemnify Optimed Technologies against any claim liability, damage, penalty, loss or cost (including legal costs on a full indemnity basis) in connection with or arising from the use of the Products by the Customer and its personnel.
11. **Liability:** To the maximum extent permitted at law, Optimed Technologies' maximum aggregate liability to the Customer under or in connection with a Contract whether based in contract, tort (including negligence), warranty or otherwise is limited to the amount under the relevant PO. Optimed Technologies will not be liable for any loss or claim to the extent that such loss or claim is caused or contributed to by a breach of the Contract by the Customer, or any act, omission, fraud or negligence of the Customer.

To the maximum extent permitted by law, Optimed Technologies is not liable to the Customer for any consequential, indirect, incidental, punitive or special, Loss, sustained or incurred by the Customer arising out of or in connection with a Contract. For the purposes of this clause 11, **Loss** means loss of profit, loss of opportunity, loss or goodwill, damage to business reputation, loss of revenue, loss of contracts, liquidated sums, penalties, losses or damages under any contracts or agreements other than the relevant Contract, business interruption, loss arising from a malicious or negligent act of third parties or any other similar loss but does not include any loss or damage that may fairly and reasonable be considered to arise naturally, that is according to the usual course of things, from the breach or other act or omission giving rise to the relevant liability.

12. **Termination:** Either party may terminate a Contract by written notice if the other party materially breaches the Contract in a way that cannot be remedied within 10 working days after receiving a notice specifying the breach and a requirement to rectify the breach. Either party may terminate a Contract by written notice if the other party is subject to an Insolvency Event. In the event of a termination, the Customer agrees that Optimed Technologies will have committed substantive resources to the fulfilment of the relevant Contract, and the Customer agrees to pay Optimed Technologies for all costs incurred (including any costs that Optimed Technologies has committed to incurring) and loss suffered by Optimed Technologies in complying with its obligations under the relevant Contract up to the date of termination.

Insolvency Event means the happening of any of the following events:

- (A) committing an act of bankruptcy;
- (B) a party is, or states that it is, unable to pay all of its debts as and when they become due and payable, or it has failed to comply with a statutory demand as provided in section 459F(1) of the Corporations Act;

- (C) an order is made for the winding up or dissolution, or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution;
 - (D) an administrator, provisional liquidator, liquidator or person having a similar or analogous function under the laws of any relevant jurisdiction is appointed or any action is taken to appoint any such person and the action is not stayed, withdrawn or dismissed within 14 days;
 - (E) a controller (as defined in the Corporations Act) is appointed in respect of any property of the party;
 - (F) the party is deregistered under the Corporations Act;
 - (G) the party enters into, or takes any action to enter into, an arrangement (including a scheme of arrangement or deed of company arrangement), composition or compromise with, or assignment for the benefit of, all or any class of its creditors or members or a moratorium involving any of them (other than for the purposes of reconstruction or amalgamation the terms of which have previously been approved in writing by the other party); or
 - (H) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction occurs in respect of the party.
13. **Disputes:** Other than in respect of any shortage or damage, which must be identified by the Customer to Optimed Technologies within 48 hours after the date of delivery as set out in Condition 2, the Customer must notify Optimed Technologies in writing of any disputes or claims within 7 days of receipt of delivery.
14. **Confidentiality:** The Customer agrees each Contract represents and/or contains confidential information that shall not be disclosed to any third party or otherwise made public, without prior written authorisation of Optimed Technologies, except where disclosure is required by law.
15. **Security interest:** The Customer agrees that Optimed Technologies may register a personal property security interest on the goods supplied under a Contract on the Personal Property Securities Register and the Customer waives the right to receive a verification statement in respect of any financing statement or financing change statement registered by Optimed Technologies. The Customer must do all things to assist Optimed Technologies with the security interest registrations(s) and perfection of such registrations(s).
16. **Compliance with Laws:** Optimed Technologies and the Customer shall comply with its obligations under federal, state, or other applicable laws or regulations with respect to the performance of the relevant Contract.
17. **Governing Laws:** This Agreement is governed by and is interpreted according to the laws in force in New South Wales. The parties submit to the non-exclusive jurisdiction of the courts operating in New South Wales and any courts which may hear appeals from those courts in respect to any proceedings in connection with this Agreement.