

Sales Terms and Conditions

1. **Entire Agreement.** These terms and conditions of sale (the “T&C”) contain all of the terms and conditions relating to the sale of products by Trend Medical, LLC, a Pennsylvania company (“Seller”), to the customer (“Customer”) identified in the document or purchase order into which this is incorporated (the “Agreement”), and constitute a legally binding agreement between Seller and Customer. The Agreement shall not supersede any prior agreements between the parties specifically relating to the Sale of Products by Seller to Customer; however, it shall supersede all prior proposals (oral and written), negotiations, commitments, and other communications between Seller and Customer relating to the Agreement. The Agreement may not be modified except by a written document that is signed by Customer and an authorized representative of Seller. The Agreement may not be altered by subsequent course of performance between the parties. Any reference to the “Agreement” herein shall also be deemed to be referring to these T&C unless the context requires otherwise.
2. **Orders.** From time to time, Customer may submit an order (“Order”) to purchase products from Seller (the “Products”), which Order shall be submitted by Customer in accordance with Seller’s then-standard ordering process, as may be amended by Seller from time to time. Orders may be accepted or rejected in Seller’s discretion. Orders are non-cancellable once shipped by Seller. Unless agreed to in writing by a duly authorized representative of Seller, Seller objects to, and is not bound by, any term or condition in any Order or other document submitted by Customer that differs from or adds to the terms of the Agreement.
3. **Price.** Prices quoted by Seller are for the price of Product only and do not include applicable freight, handling, insurance, custom duties, or federal, state, or local excise, sales, use or other similar taxes, all of which are the responsibility of Customer and shall be added to Customer’s invoice as applicable. All Product sales may be considered taxable unless, prior to sale, Customer provides Seller with a valid tax exemption certificate. Seller may change prices without notice at any time prior to acceptance of an Order from Customer.
4. **Payment.** The purchase price of each Order will be due and payable in full by Customer within thirty (30) days from the date of Seller’s invoice, unless a longer payment period is agreed to in writing by Seller’s Credit Manager or as otherwise indicated below. If Seller deems itself insecure, in its sole and absolute discretion, with respect to Customer’s performance under an Order for absence of established credit or otherwise, or Customer is in breach of the Agreement or any Order, Seller

may require advance cash payment or satisfactory security from Customer, and Seller may withhold any Product shipments until Seller receives such payment or security. Seller is not required to extend credit to Customer and at any time may review Customer's payment terms and/or credit limit and may in its sole and absolute discretion revoke any agreement that may exist for the extension of credit by Seller to Customer. A three percent (3%) credit card processing fee for payments made by Customer using any credit card will be applied, which surcharge you will be notified of prior to payment authorization. Where prohibited by state law, Seller will waive the credit card processing fee. If you would like to avoid the fee, simply choose another payment method, including e-check, ACH, or wire transfer. If Seller does not receive payment when due, Seller may (a) charge Customer interest at the rate of 1.5% per month on all unpaid and delinquent amounts or the maximum rate allowed by law, whichever is less, (b) require payment in advance or place Customer's account on credit hold, (c) stop Product shipments, and/or (d) pursue other remedies available at law or equity. Customer agrees to pay Seller's reasonable costs of collection (including, without limitation, attorneys' fees and court costs) if any unpaid and delinquent amount is turned over by Seller to a collection agency. NSF checks will be subject to a \$25.00 processing fee. Any credits given to Customer which are not used within 90 days may be applied by Seller against Customer's oldest invoices.

5. **Delivery.** All Product shipments will be made F.O.B. point of origin, which shall be deemed the time of delivery. Title will pass to Customer and risk of loss of the Products is the responsibility of Customer when the Products are delivered by Seller to the carrier at the point of origin. All claims for Products damaged in transit must be filed by Customer with the carrier. Shipping or delivery dates provided by Seller are best estimates. Seller will have no liability whatsoever for costs, loss of profits, or any other incidental or consequential damages due to delay in delivery.
6. **Packing.** The Products will be packaged in accordance with Seller's standard packaging practices.
7. **Inspection.** Customer must inspect the Products upon delivery and notify Seller within 10 days of any discrepancies in quantity, sizing, or other omissions. Failure to give such notice will constitute acceptance of the Products.
8. **Limited Warranty.** Subject to the terms below, Seller provides the following limited warranty for the Products. Seller warrants to the purchaser that at the time of delivery any Products purchased will be free from defects, be as set forth in the Order, be compliant with all applicable laws and regulations, be new, merchantable,

and fit for their intended purpose. The warranty period commences on the date of shipment. Seller's sole obligation for this limited warranty is to repair or replace a defective Product at no charge to Customer or to credit Customer's account for the purchase price paid for the defective Product, at Seller's discretion. This limited warranty does not apply if the defective Product: (i) is subject to abuse, neglect, misuse, accident, improper storage, or the actions or negligent omission of any party other than Seller; (ii) has not been used in accordance with Seller's written instructions for use (IFU); (iii) was not purchased from Seller or an authorized dealer of Seller; or (iv) was modified from its original configuration or repaired or altered by anyone other than Seller or a person authorized by Seller. To make a warranty claim, Seller's Customer Care Department must be contacted within five days of discovery of the defect to obtain a return authorization number. Seller will be responsible for shipping costs on defective Products that are under warranty which are returned by Customer to Seller with a return authorization number. Replaced or repaired Product will be shipped to Customer at Seller's expense. Other warranty terms and limitations may apply to certain Products, as described on Seller's website. SELLER HEREBY DISCLAIMS ANY OTHER EXPRESS OR IMPLIED WARRANTIES NOT SET FORTH IN THE FOREGOING LIMITED WARRANTY, WHICH ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER WILL NOT BE LIABLE FOR AND HEREBY DISCLAIMS LIABILITY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR LOST PROFITS, CAUSED BY ANY PRODUCT DEFECT WHETHER CLAIMS ARE BASED UPON TORT (INCLUDING NEGLIGENCE), WARRANTY, CONTRACT OR OTHERWISE, EVEN IF SELLER HAS BEEN ADVISED OF SUCH POTENTIAL LOSS OR DAMAGE. TO THE EXTENT THE FOREGOING DISCLAIMERS ARE NOT ALLOWED BY APPLICABLE LAW, ANY IMPLIED WARRANTIES WILL BE LIMITED TO THE DURATION OF THE EXPRESS LIMITED WARRANTY APPLICABLE TO THE PRODUCT.

9. **Returns.** Products which are not defective may be returned to Seller in accordance with Seller's standard return policy posted on Seller's website for credit minus a restocking charge of 20% of the purchase price. To be eligible for return, the Product must be unopened, unused, and in the same condition as when received. No returns will be accepted without a return authorization number which may be obtained by calling Seller's Customer Care Department. Customer will be responsible for shipping costs when returning Products to Seller. Altered, discontinued, or custom-made items which are not defective may not be returned to Seller.

- 10. Intellectual Property.** Subject to the express rights and licenses granted by Seller in this Agreement, Customer acknowledges and agrees that: (i) any and all intellectual property rights in the Products are the sole and exclusive property of Seller; (ii) Customer shall not acquire any ownership interest in any of Seller's intellectual property rights under this Agreement; (iii) any goodwill derived from the use by Customer of Seller's trademarks inures to the benefit of Seller; and (iv) if Customer acquires any intellectual property rights in or relating to any Product purchased under this Agreement, by operation of law or otherwise, these rights are deemed and are hereby irrevocably assigned to Seller, without further action by either Party.
- 11. Limited License.** Seller hereby grants to Customer a non-exclusive, non-transferable, and non-sublicensable license to use Seller's trademarks solely for the purpose of marketing, promoting, and reselling the Products until the expiration or earlier termination of this Agreement.
- 12. Assignment.** Customer may not assign the Agreement or any Order without Seller's prior written consent, and any such attempted assignment will be void.
- 13. Applicable Law; Arbitration.** The Agreement, including any Order submitted hereunder, will be governed by laws of the Commonwealth of Pennsylvania, United States of America, without regard to conflict of law principles thereof. The provisions of the United Nations Convention on Contracts for the International Sale of Goods will not apply to the Agreement or any Order. Any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Pennsylvania, before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.
- 14. Export.** Customer agrees to comply with all export control laws. Customer shall not export any Products outside the United States without Seller's prior written consent, and Seller makes no representation to Customer about any Products being suitable or permissible for sale outside of the United States. Customer agrees it will not directly or indirectly export, re-export, resell, ship, or divert any Products or provide services to any customers or countries for which the U.S. Government at the time of export or re-export had embargoed or which export or re-export requires a validated license or other governmental approval without first obtaining such license or

approval. Customer will indemnify and hold Seller harmless for all claims, demands, damages, costs, fines, penalties, fees and other expenses and losses arising from Customer's failure, intentional or unintentional, to comply with the foregoing paragraph.

15. **Discount Safe Harbor.** If Seller provides Customer with a discount, rebate, or price reduction in connection with the Products sold, Seller hereby notifies Customer of its disclosure obligation, and Customer agrees to properly disclose and appropriately reflect the net prices of all Products in any costs claimed or charges made to Medicare, Medicaid, and any other federal or state health care programs requiring discount disclosure, and as required by 42 U.S.C. § 1320a-7b(b)(3)(A). If Seller provides Customer with a rebate, Seller will provide Customer with documentation of the calculation of the discount identifying the specified goods purchased to which the discount will be applied once the value of the rebate is known.
16. **Force Majeure.** If the performance of any part of the Agreement or any Order is prevented or delayed by reason of any cause beyond the control of Seller, Seller will be excused from such performance during the continuance of such happening or event.
17. **Taxes.** Customer is responsible for providing Seller with tax exemption certificates for all states to which Customer instructs Seller to deliver. Failure to provide applicable tax exemption certificates may result in Seller collecting and remitting applicable sales taxes from Customer.
18. **Miscellaneous.** Customer and Seller are independent contractors. Neither Customer nor Seller has any right to create any obligation or duty, express or implied, on behalf of the other. Product availability and specifications may be changed without notice at any time by Seller.