

STANDARD TERMS AND CONDITIONS

§1 PACKING, PRICING PAYMENT, CONDITIONAL SALE

A. Product shall be suitably packed, marked and shipped as designated by SOMNOMEDICS in accordance with requirements of common carriers in a manner to secure lowest transportation cost.

B. Prices for products are based on EXW SOMNOMEDICS, according to latest edition of INCOTERMS.

C. SOMNOMEDICS reserves the right to sell reconditioned or remanufactured product.

D. SOMNOMEDICS retains title to, and ownership of, and a security interest in all products sold until paid in full and Buyer grants SOMNOMEDICS a security interest in and to all products delivered.

§2 DELIVERY

If SOMNOMEDICS fails to deliver on the delivery date, Buyer shall give SOMNOMEDICS written notice of delinquency allowing SOMNOMEDICS a reasonable time to cure. SOMNOMEDICS shall be considered in default of its obligation to deliver under SOMNOMEDICS's Quotation and these Terms and Conditions on the later of (1) 30 days after such notice, or (2) if shipment is not made within 60 days after the date in SOMNOMEDICS's Quotation, in which case Buyer may terminate Buyer's order by written notice to SOMNOMEDICS.

§3 WARRANTY

A. SOMNOMEDICS warrants to Buyer that all devices with serial numbers shall be free from defects in design, materials and workmanship. Warranty period shall be for 24 months from shipment date.

B. Buyer shall notify SOMNOMEDICS of any rejection for failure to conform to the requirements of SOMNOMEDICS's Quotation or these Terms and Conditions, giving detailed reasons for rejection. Failure of Buyer to reject

any product within 10 days after receipt shall constitute acceptance.

C. If such nonconformity is claimed by Buyer within such 10 days, Buyer shall allow SOMNOMEDICS a reasonable time to remedy the defect. Buyer shall render necessary assistance to SOMNOMEDICS, and furnish adequate means for operating and testing products.

D. Should products prove to be nonconforming, and the nonconformity is not remedied, the particular product that fails to conform must be returned by Buyer at its expense. Buyer shall immediately notify SOMNOMEDICS of the return by registered mail addressed to SOMNOMEDICS, and SOMNOMEDICS may then, at its option, either replace products or rescind SOMNOMEDICS's Quotation for defective products.

E. If SOMNOMEDICS does cure the nonconformity, Buyer shall pay the full price as set forth in SOMNOMEDICS's Quotation.

F. Any action on a breach of SOMNOMEDICS's obligations under this Section must be commenced within one year of shipment date.

G. The warranty does not apply to any products to the extent they have been subject to (1) other than normal wear and tear, or (2) improper use, improper installation, improper repair by unauthorized service personnel, tampering, negligence, abuse or accident. SOMNOMEDICS shall not be liable for any direct, indirect, special or consequential damages resulting from the use of products.

H. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF TECHNOLOGICAL VALUE.

§4 EXCUSABLE DELAY

Neither party shall be liable to the other for damages for any delay arising out of causes beyond its reasonable control and without its fault or negligence.

§5 CHANGES

SOMNOMEDICS reserves the right at any time to make changes in (1) its drawings and specifications, and (2) methods of packaging and shipping. No such changes shall reduce quality or performance of products not shipped, but for which orders have been accepted by SOMNOMEDICS.

§6 INSOLVENCY

In event of insolvency as defined by the Uniform Commercial Code in effect in Florida, any act of bankruptcy, whether voluntary or involuntary, or any insolvency proceeding instituted, by or against Buyer, SOMNOMEDICS shall be entitled to (1) cancel any order then outstanding and receive reimbursement for its reasonable and proper cancellation charges, (2) refuse delivery of products except for cash including payment for all products theretofore delivered, (3) stop delivery of products in transit, and (4) take immediate and exclusive possession of all products delivered to Buyer for which the contract price remains unpaid.

§7 RELEASE

SOMNOMEDICS and Buyer each agree to release and waive any liability of and claim against the other, its officers, agents and employees, for loss of or damage to property or person, including loss of use arising directly or indirectly out of or in connection with the other's performance under SOMNOMEDICS's Quotation, these Terms and Conditions or Buyer's orders.

§8 CONFIDENTIALITY

A. SOMNOMEDICS retains title and all associated rights to its intellectual property, including trademarks, trade names, copyrights, patents, product packaging, associated markings, advertising, marketing materials and manuals, which may not be copied, removed, disguised or changed by Buyer.

B. Buyer shall regard as highly confidential all information developed by or communicated to it by SOMNOMEDICS, and shall not, without SOMNOMEDICS's prior, express and written approval, make any oral or written disclosure of the confidential information, either during or after any shipment, except to Buyer's employees and other authorized persons who may be designated to work with SOMNOMEDICS, and who agree to treat such information in a highly confidential manner.

§9 NOTICES

All notices and other communications required or authorized under these Terms and Conditions shall be given in writing either by personal delivery or by registered mail addressed to the other party.

§10 COMPLIANCE

A. In performing under SOMNOMEDICS's Quotation, these Terms and Conditions or Buyer's orders, all applicable governmental laws, regulations, orders and other rules of duly constituted authority will be followed and complied with in all material respects by both parties. The parties agree to make reasonable efforts to advise the other of any such matters in its country affecting the other.

B. Buyer acknowledges that SOMNOMEDICS has informed it that US law and US Export Administration Regulations govern, and may prohibit the reexport or other disposition of products and related technical data received by Buyer or its customers without prior US government approval.

C. Buyer agrees that diversion of products from destinations identified in the Shipper's Export Declaration constitutes a fundamental and material breach under SOMNOMEDICS's Quotation, these Terms and Conditions and Buyer's orders. If products are diverted from intended destinations, the sale may be voided in the sole discretion of SOMNOMEDICS, and all right, title and interest in products shall revert to SOMNOMEDICS. In the event of such breach, Buyer shall be liable to SOMNOMEDICS for all costs, fees and expenses incurred by SOMNOMEDICS in

connection with recovery of products, including reasonable attorney fees.

D. Buyer agrees and warrants that in performance of its obligations under SOMNOMEDICS's Quotation, these Terms and Conditions and Buyer's orders, it will comply with US Foreign Corrupt Practices Act.

§11 REMEDIES

A. Remedies reserved in these Terms and Conditions shall be cumulative and in addition to any other remedies provided in law or equity.

B. Neither SOMNOMEDICS nor Buyer assumes any liability for consequential, indirect, incidental or punitive damages incurred or suffered by the other.

C. If Buyer defaults in the payment of any installment or in the performance of any condition of the Quotation, order, or these Terms and Conditions, the remaining unpaid balance shall, at the option of SOMNOMEDICS or its assigns, become immediately due and payable, or, if SOMNOMEDICS or its assigns shall feel insecure, SOMNOMEDICS or its assign may take immediate and exclusive possession of the products delivered. SOMNOMEDICS or its assigns shall have all additional rights and remedies accorded a secured party on default by Florida Statute.

D. In the event of a default, Buyer waives any statutory bond requirements that SOMNOMEDICS would otherwise have to post.

§12 WAIVER, MODIFICATION

A. No waiver of any provision herein shall constitute a waiver of any other. Failure by either party to enforce any provision of SOMNOMEDICS's Quotation, these Terms and Conditions or Buyer's orders shall not constitute a waiver of the provisions or

prejudice the right of either party to enforce the provision at any subsequent time.

B. If any provision of SOMNOMEDICS's Quotation, these Terms and Conditions or Buyer's orders is or becomes void or unenforceable by force or operation of law, the other provisions shall remain valid and enforceable.

C. Oral statements and understandings are not valid or binding, and SOMNOMEDICS's Quotation, these Terms and Conditions and Buyer's orders (1) shall not be changed or modified except by a writing signed by both parties, and (2) represent the entire agreement between the parties concerning the subject matter hereof.

D. In case of conflict, the order of priority shall be any written agreement between SOMNOMEDICS and Buyer, SOMNOMEDICS's Quotation, these Terms and Conditions and Buyer's orders.

§13 GOVERNING LAW

Any claims or disputes arising out of or relating to SOMNOMEDICS's Quotation, these Terms and Conditions or Buyer's orders shall be brought in Miami, Florida unless a written agreement between SOMNOMEDICS and Buyer concerning the specific Quotation provides otherwise. The parties consent to the exclusive jurisdiction of the courts in Miami, Florida. Governing law shall be the internal laws of Florida, without regard to its conflict-of-law rules. United Nations Convention on Contracts for the International Sale of Goods shall not apply to SOMNOMEDICS's Quotation, these Terms and Conditions or Buyer's orders.

§14 TECHNICAL SPECIFICATIONS

Terms and conditions of SOMNOMEDICS's product manuals including, but not limited to, warranty, technical support, returns, upgrades and out-of-warranty, are hereby incorporated.