

## **Applied Medical Terms & Conditions**

The following terms and conditions apply to sales of Applied Medical products to the exclusion of any other provisions unless agreed upon in writing by Applied Medical and the Customer. Any changes or additional terms require written agreement by Applied Medical and Customer to be effective.

### **Prices**

Offers and prices are not binding unless they are fully confirmed in writing or specified in an invoice by Applied Medical. Orders of products for which prices have not been offered and/or agreed upon, will be invoiced with the list prices valid on the day of dispatch. Applied Medical may change list prices at any time without prior notice. Applied Medical is entitled to increase prices offered and/or agreed upon for all products at any time, by providing Customer with two (2) months advance notice. The prices exclude any applicable taxes (such as use tax, excise tax, and value added tax), which will be calculated based on the applicable percentages and charged to the Customer. Minimum order value for deliveries is € 250,00. A processing fee of € 30,00 is charged for orders below the minimum order value.

### **Payments**

Full payment is due no later than 30 days after invoice date, unless applicable law requires otherwise. Applied Medical may invoice on or at any time after completion of delivery. If Customer fails to comply with these terms and conditions or Applied Medical reasonably believes there is risk of insolvency or other inability to pay by Customer, Applied Medical may in its sole discretion require a deposit or require pre-payment for any order or cancel or suspend all further deliveries without incurring any liability towards the Customer and all outstanding sums in respect of products delivered to the Customer shall become immediately due.

If Customer fails to make timely payment, Applied Medical may in its sole discretion do one or more of the following: (1) charge interest of 2%, or the highest rate permitted by law, until all amounts owed are paid; (2) initiate legal proceedings to collect credit. Any credit or other fee due owed to the Customer will be

settled against overdue balances before payment is made to the Customer. The Customer is not entitled to withhold or delay payment of sums due to Applied Medical for any reason whatsoever. Customer's obligation to pay is not subject to any withholding, delay, set-off or abatement regardless of legal grounds.

### **Delivery**

Unless different terms of delivery are agreed in writing between Applied Medical and the Customer, the delivery shall be DAP (destination) (Incoterms 2010). Applied Medical is entitled to select the packaging and mode of transportation and to make partial deliveries when needed. All shipments are packaged in a way suitable for air shipments. Delivery times are estimated at a maximum of 5 days. Upon written request by the Customer, Applied Medical will evaluate the possibility of providing *express* shipment of the products. *Express* shipments will result in additional costs to be charged to the Customer. Delivery times are estimates only and not binding unless a fixed date of delivery is agreed upon in writing between Applied Medical and the Customer. Applied Medical shall not be deemed responsible for any delay in delivery due to unforeseen impediments, impediments caused by force majeure or delays for which its suppliers are responsible.

### **Limited Warranty**

Applied Medical provides the following limited warranty: the Product will: (i) materially conform to the written specifications furnished by Applied Medical to the Customer; and (ii) comply at the time of shipment with the then-applicable requirements and regulations. The Limited Warranty is valid for 12 months from date of delivery. For any product that does not comply with this Limited Warranty, Applied Medical will, in its sole discretion: (i) replace the product at its expense; or (ii) refund the full purchase price of the Product. A written notification reporting such defects must be submitted by the Customer to Applied Medical promptly after such defects are identified. Applied Medical's warranty obligations are subject to Customer's compliance with all instructions and requirements regarding the use of the product. Damages occurred due to improper use or natural wear are not considered defects and are exempt from liability hereunder.

EXCEPT AS EXPRESSLY PROVIDED ABOVE OR AS PROHIBITED BY APPLICABLE LAW, APPLIED MEDICAL EXCLUDES ALL OTHER WARRANTIES, EXPLICIT OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE,

INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY PROVIDED HEREIN, IN NO EVENT SHALL APPLIED MEDICAL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL LOSS, DAMAGE, OR EXPENSE, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY (INCLUDING LOST PROFITS, PROCUREMENT OF SUBSTITUTE GOODS, AND BUSINESS INTERRUPTION), AND WHETHER OR NOT APPLIED MEDICAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. APPLIED MEDICAL NEITHER ASSUMES NOR AUTHORIZES ANY THIRD PARTY TO ASSUME FOR IT ANY LIABILITY OR RESPONSIBILITY IN CONNECTION WITH THE PRODUCTS. IN NO EVENT SHALL APPLIED MEDICAL'S LIABILITY UNDER THIS LIMITED WARRANTY EXCEED THE PURCHASE PRICE OF THE PRODUCT.

### **Product Returns**

Unused products can be returned to Applied Medical within thirty (30) days of the shipping date. They must be received at Applied Medical within thirty (30) days from the date a Return Goods Authorization (RGA) was issued. An RGA number must be issued by Applied Medical's Customer Service department prior to returning any product to Applied Medical. The RGA number must be included on the outside of the shipping carton. The product must be returned in the original saleable condition and properly packed using an over-carton to receive credit. A twenty-five percent (25%) handling fee will be charged unless the product was shipped as a result of an error by Applied Medical or by one of its service providers.

For used products returned for evaluation, Customer is required to submit a prior notification in the form of a Product Complaint Form. A Product Complaint Form must be submitted, completely filled-in, to Applied Medical within twenty-four (24) hours from product use. Used products returned to Applied Medical must be decontaminated and packaged for safe handling. Applied Medical representatives will not receive any product that does not meet the above criteria. Credit value will be issued for authorized returns at the invoice purchase price upon final performance of the product inspection by Applied Medical.

A copy of the original packing slip or invoice must be included with any returned product. Any product received by Applied Medical that does not meet all the above conditions and/or the circumstance is not covered under the Limited Warranty, the product will be returned to Customer at its sole expense.

## **Personal information**

Applied Medical's current privacy policy on the use of personally identifiable information is available on the company's website ([www.appliedmedical.eu](http://www.appliedmedical.eu)).

## **Ethical Codes and Organization, Management and Control Mode**

The Customer acknowledges that Applied Medical has adopted a Codes of Ethics and Conduct and several Organization, Management and Control Models pursuant to National laws of specific EU Countries<sup>i</sup> for the prevention of the offenses envisaged therein and undertakes to respect the principles therein contained. The Applied Medical Codes of Ethics and Conduct is available at the following link: <https://www.appliedmedical.com/Legal/CorporateCompliance>. The Customer also acknowledges and accepts that any violation of the principles and provisions contained in the Organizational Models and in the Company's Codes of Ethics and Conduct will lead to termination of this contract, without prejudice to compensation for any further damages.

## **Confidential Information.**

During the performance under this terms & conditions and thereafter, Applied Medical and the Customer (in this article, they will be referenced to individually as "Party" and together as "Parties") shall not disclose or use Confidential Information except as permitted in this terms & conditions or in writing by the disclosing Party. Any third party having access to Confidential Information shall be bound by confidentiality obligations at least as strict as those in this terms & conditions. "Confidential Information" shall mean all information, data and materials concerning Parties and/or the Goods and Services that are disclosed to the receiving Party, or developed as a result of each Party's performance hereunder, except any portion thereof which: (a) is known to the receiving Party on a non-confidential basis before receipt thereof hereunder, as evidenced by written records; (b) is disclosed to the receiving Party by a third party having a right to make such disclosure in a non-confidential manner; or (c) is or becomes part of the public domain through no fault of the receiving Party. Neither Party shall disclose to the receiving Party any information which is confidential or proprietary to a third party without obtaining prior written consent of such third party and the receiving Party. Upon request of the disclosing Party, the receiving Party shall return all Confidential Information to the disclosing Party. Nothing in this terms & conditions shall be construed to restrict either Party from

disclosing Confidential Information as required by law, court order or other governmental order, provided in each case that such Party shall timely inform the disclosing party so that the disclosing Party may seek a protective order. Parties shall under no circumstances disclose any confidential and/or non-public information on third party companies or organizations to the other Party.

### **Intra-Group assignment**

Any Applied Medical entity is permitted to assign its rights and obligations as the contract party to a 100% affiliated company within the Applied Medical Group, as long as this new company will provide the Customer with the same securities and guarantees under this terms & conditions as the original Applied Medical entity.

### **Jurisdiction**

All disputes arising out of or in connection with this terms & conditions will be resolved by the Amsterdam District Court following proceedings in English before the Chamber for International Commercial Matters (“Netherlands Commercial Court” or “NCC District Court”), to the exclusion of the jurisdiction of any other courts. An action for interim measures, including protective measures, available under Dutch law may be brought in the NCC's Court in Summary Proceedings (CSP) in proceedings in English. Any appeals against NCC or CSP judgments will be submitted to the Amsterdam Court of Appeal’s Chamber for International Commercial Matters (“Netherlands Commercial Court of Appeal” or “NCCA”). The NCC Rules of Procedure apply.

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<sup>i</sup> Organization, Management and Control Models respectively pursuant to Italian law “Legislative Decree 231/2001” and Spanish “Organic Law 2015/01”