

STANDARD PURCHASE TERMS AND CONDITIONS

The purchase of Itamar Medical, Inc. (Itamar) Products are subject to Itamar's Standard Purchase Terms and Conditions ("Terms and Conditions"). These Terms and Conditions may be modified from time to time without notice and the latest version of this document shall control. The Order Form is Itamar's offer to sell Products and/or to provide service. The Order Form and the underlying transaction will not be binding on Itamar until the Order Form is signed by Itamar. Acceptance of the Order Form is strictly limited to the provisions set forth in the Order Form and these Terms and Conditions. Itamar shall not be bound by, and specifically and expressly objects to, any terms or conditions whatsoever which are different from or in addition to the provisions of the Order Form and these Terms and Conditions, including any terms and conditions contained on or referenced in Customer's purchase order. Customer's issuance of a purchase order or commencement of any activities pursuant to the Order Form shall conclusively evidence Customer's acceptance of the Order Form and these Terms and Conditions and create a binding contract between Customer and Itamar hereunder regardless of whether the Order Form has been signed by Customer. Products means units of equipment or devices and Consumables being purchased or used by Customer. Consumables mean nondurable goods such as probes, adhesives, sensors and bands (snoring and body positions sensors are non-consumable durable goods).

1. Training

Itamar shall train Customer in the use of the Products and Customer shall pay for training in accordance with and at the rates set forth in the Quotation/Order Form. Prior to training Customer shall not handle, attempt to operate, or operate any Products except in the presence and under the supervision of authorized Itamar personnel and shall prevent any third party from doing so.

2. Payment

Unless otherwise provided for in the Order Form, charges for Products will be invoiced upon delivery and paid in full, without abatement, set-off, or deduction, within 30 days of invoice receipt at the address given for notices below. At Itamar's sole discretion, Customer may be subject to an interest charge of 1.5 percent per month on any outstanding balance if Customer fails to make timely payments.

3. Taxes and Duties

Customer shall be responsible for and shall pay directly all taxes (exclusive of any tax based on Itamar's income), customs duties, assessments, fees and other charges (collectively referred to as "Costs") levied by any and all government entities respecting delivery, possession, or use of any Products. Purchase prices for the Products do not include these Costs.

4. Transfer of Title; Risk of Loss

Delivery is FOB Origin unless otherwise specified by Itamar in the Sales Quotation/Order Form. Title and risk of loss shall be transferred to Customer at the time and location of delivery of the Products into Customer's possession. Title to any part or Consumable that Itamar removes in connection with the service of the Products shall pass to Itamar when removed.

5. Security Agreement; Transfer of Product(s)

As security for the payment and performance of all of Customer's obligations to Itamar of every kind and description, direct and indirect, absolute and contingent, primary and secondary, due or to become due, now existing or hereafter arising or acquired ("Obligations"), Customer hereby grants to Itamar a security interest in all now owned or hereafter acquired Itamar Products delivered to Customer. Regardless of whether or not a default in the payment or performance of the Obligations has occurred, Itamar shall have, in addition to all other rights and remedies, the rights and remedies of a secured party under applicable law. Subject to the restrictions set forth below in Section 6 (*Software License*), until Itamar has been paid in full, Customer shall not part with possession or control of the Products or sell, pledge, mortgage, lease or otherwise transfer or encumber the Products without the written consent of Itamar or Itamar's assignee.

6. Software License

Software means the source and object code version of computer programs and any related documentation. This Software comprises the operating and application software incorporated in Products provided by Itamar. Title to all Software shall remain with Itamar. Itamar hereby grants to Customer a nonexclusive, nontransferable, royalty-free license to use operating and application Software, solely as part of Customer's use of the Products in Customer's normal internal business operations. The license granted herein shall extend for the life of the Products in Customer's possession, provided that any transfer of the Products or breach of Sections 8 or 9 hereunder by the Customer shall result in immediate and automatic termination of this software license. Customer's use of Software shall also be governed by any additional conditions which Itamar may provide on or prior to delivery of the Products.

7. Confidential and Proprietary Technology

It is expressly understood and agreed by Customer that the Products incorporate highly confidential knowledge, technology, and trade secrets (all of which, whether or not copyrighted or patented, are hereafter referred to as "Technology"). The Technology includes Technology incorporated in the Products themselves, manuals and other documentation marked confidential by Itamar, and oral information provided to Customer by Itamar on a confidential basis. The Technology is, and shall always remain, the exclusive property of Itamar. Customer shall have a continuing obligation to maintain the confidentiality of the

Technology until such time that it becomes publicly known. During such time, Customer will take reasonable measures to ensure the confidentiality of the Technology, using procedures at least as secure as those Customer uses to protect its own most confidential proprietary technology. Except for use of the Products in the normal course of Customer's business operations, Customer agrees not to use in any way or form whatsoever, any part of the Technology for any purpose whatsoever. Customer shall not replicate, reproduce, alter, modify, disassemble, decompile, reverse engineer, create derivative works from, transfer or disclose to third parties, any part of the Technology for any purpose whatsoever. Customer shall not use the Products to assess, test, or develop any hardware or software products either for Customer or others. Customer shall not remove any proprietary notice, labels, or marks on the Products. Customer acknowledges that any violation of this provision will result in irreparable harm to Itamar and that Itamar may enforce its rights hereunder by injunction against any threatened or continuing violation, or in an action for damages, or both.

8. Intellectual Property Indemnity

8.1. Itamar shall, at its own expense, defend any action brought against Customer to the extent that it is based on a claim that the Products, or any component thereof, supplied pursuant hereto, infringe upon any patent, license, copyright or trademark, provided that (a) Customer promptly notifies Itamar in writing of the assertion, threat, or institution of any such claim, suit or proceeding; (b) Itamar shall have sole control of the defense of any action and any negotiation for its settlement or compromise; (c) Itamar shall have the sole right to choose attorneys to represent Customer in such action; (d) Itamar shall not be obligated to pay for Customer's legal expenses if Customer chooses to have its own counsel represent it as co-counsel in any such action; (e) Customer shall provide all reasonable facilities, authority, information and assistance for a proper defense and/or settlement negotiations; and (f) Customer refrains from taking any position or action detrimental or adverse to Itamar. If the Products, or any component thereof, are adjudicated or reasonably anticipated to be an infringement on any patent, license, copyright or trademark, or in such other circumstances as Itamar in its sole discretion determines to be appropriate, Itamar, at its own option and expense, may elect to: (i) obtain for Customer the right to continue using the Products; (ii) replace or modify the Products so they become non-infringing; or, if unable to do either, then (iii) take back the Products, and refund to the Customer the depreciated cost of the Products, calculated on a straight-line, thirty-six (36) month basis.

8.2. Itamar shall not be liable for any claim that the Products, or any component thereof, infringe upon any patent, license, copyright or trademark, if such claim is based in whole or in part on (a) the use of incorporated software or components of the Products which is not the latest unmodified release, where such infringement may have been avoided by the use of such latest release; (b) amendments, alterations, modifications or attachments to any Products made by any party other than Itamar; (c) use of the Products on or in conjunction with equipment other than the Customer's workstation or the

Itamar Products; (d) a copy of the Software where the Software has been added to, altered, or amended in any way after the Software was copied; or (e) the combination, operation, or use of the Products with any equipment not supplied by Itamar.

8.3. THIS SECTION 8 STATES ANY, ALL, AND THE ENTIRE LIABILITY OF ITAMAR WITH RESPECT TO PATENT, LICENSE, COPYRIGHT, OR TRADEMARK INFRINGEMENT BY THE PRODUCTS. ITAMAR SHALL HAVE NO ADDITIONAL LIABILITY TO CUSTOMER WHATSOEVER WITH RESPECT TO ANY ALLEGED OR PROVED INFRINGEMENT.

9. Maintenance Service

9.1. Maintenance Service for the Products is the provision of remote telephone support and the replacement of parts to maintain the Products in good working order. The replacement of parts may require the shipment of the Product to Itamar's facility. Unless otherwise provided for, the Maintenance Service provided hereunder shall begin on the date of expiration of the warranty period applicable to all the Products, if any, or on the date(s) shown on the Order Form. Maintenance Service may be provided in the form of an extended warranty or on a time and material basis. Itamar reserves the right to increase Maintenance Service fees upon the expiration of any maintenance term or at any time during a maintenance term upon ninety (90) days' prior written notice. If Itamar increases Maintenance Service fees during a maintenance term, Customer shall have the right to terminate such Maintenance Services by giving Itamar thirty (30) days' written notice.

9.2. Maintenance Service shall be provided for performance failures of Products resulting from normal wear and tear. Product failures shall not include failures resulting from any other cause, including, but not limited to (a) Customer's negligence, unauthorized attempts to maintain or repair the Products; (b) insurable occurrences, acts of nature or power failure; or (c) alterations, out of specification supplies, or defects in design material or workmanship of non-Itamar products and services.

9.3. Itamar has no obligation to provide Maintenance Services for non-Itamar Products which were modified without Itamar's express written approval. Should Itamar agree to maintain or service modified Products, Itamar may impose additional charges. Itamar is not responsible for any malfunction, nonperformance, or degradation of performance of Products, supplies or maintenance support materials caused by or resulting directly or indirectly from any modification.

9.4. Itamar may delegate any of its duties under this Agreement to any third party that, in its reasonable discretion, Itamar determines to be qualified to perform that duty.

10. Warranties and Disclaimers

10.1 EXCEPT AS EXPRESSLY STATED IN THESE TERMS AND CONDITIONS, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE. ITAMAR

DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AS TO ALL PRODUCTS. ITAMAR WARRANTIES EXTEND SOLELY TO CUSTOMER.

10.2 PRODUCT WARRANTY AND DISCLAIMERS: ITAMAR WARRANTS THAT IT SHALL HOLD GOOD TITLE TO THE PRODUCTS AT THE TIME OF ITS SALE TO CUSTOMER; THAT ALL PRODUCTS COVERED BY THESE TERMS AND CONDITIONS SHALL BE FREE OF DEFECTS IN MATERIAL AND WORKMANSHIP WHEN DELIVERED; AND THAT ALL PRODUCTS SHALL OPERATE IN ACCORDANCE WITH THE PRODUCTS SPECIFICATIONS FOR A PERIOD OF TWELVE (12) MONTHS (OR OTHER SUCH PERIOD AS MAY BE SPECIFIED IN THE APPLICABLE ORDER FORM) FROM THE DATE OF DELIVERY. THE PRECEDING WARRANTIES ARE SUBJECT TO THE FOLLOWING: (A) ITAMAR'S SOLE OBLIGATION HEREUNDER SHALL BE TO REPAIR OR REPLACE, AT ITAMAR'S ELECTION, ANY DEFECTIVE MATERIAL OR WORKMANSHIP AT NO CHARGE TO CUSTOMER; AND (B) ITAMAR SHALL HAVE NO OBLIGATION (EITHER DURING OR SUBSEQUENT TO THE WARRANTY PERIOD AND WHETHER OR NOT UNDER MAINTENANCE SERVICE) TO MAKE REPAIRS OR REPLACEMENTS NECESSITATED IN WHOLE OR IN PART BY: (I) THE FAULT OR NEGLIGENCE OF CUSTOMER; (II) IMPROPER OR UNAUTHORIZED USE OF THE PRODUCTS; (III) UNAUTHORIZED ATTEMPTS BY CUSTOMER TO REPAIR THE PRODUCTS; (IV) CUSTOMER'S UNAUTHORIZED TRANSPORTATION, ALTERATION, OR MODIFICATION OF THE PRODUCTS OR ADDITION OF ANY ACCESSORY, FEATURE OR DEVICE; OR (V) CAUSES EXTERNAL TO THE PRODUCTS SUCH AS, BUT NOT LIMITED TO, POWER OR AIR CONDITIONING FAILURE OR CATASTROPHE.

10.3 MAINTENANCE WARRANTY DISCLAIMERS: ITAMAR HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES WITH RESPECT TO PARTS NOT MANUFACTURED BY ITAMAR. ITAMAR WARRANTS THAT PRODUCTS WILL BE SUPPORTED IN ACCORDANCE WITH THE SERVICE DESCRIBED IN THE ORDER FORM.

11. Limitation of Liability

ITAMAR SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE (INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES) CAUSED BY OR RELATING TO THE SERVICES PERFORMED OR THE PRODUCTS PROVIDED UNDER THE ORDER FORM AND THESE TERMS AND CONDITIONS, OR BY DELAY OR ANY ACT OR OMISSION OF ITAMAR IN CONNECTION WITH THE

ORDER FORM AND THESE TERMS AND CONDITIONS, EVEN IF ITAMAR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ANY AND ALL WARRANTIES AND FOR ITAMAR'S LIABILITY OF ANY KIND UNDER OR ARISING OUT OF THE ORDER FORM AND THESE TERMS AND CONDITIONS (WHETHER IN CONTRACT, TORT, OR OTHERWISE) SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT OF DEFECTIVE MATERIAL OR WORKMANSHIP IN ORDER TO MEET PRODUCT SPECIFICATIONS.

12. Event of Default; Remedies; and Termination.

12.1. By providing Customer with written notice of termination, Itamar may immediately terminate this Agreement if (i) Itamar determines that any material representation or warranty now or hereafter made by Customer was not true or accurate when given, or (ii) Customer is in breach of a Order Form or these Terms and Conditions or otherwise defaults on any of its duties, including, but not limited to, timely payments of sums due, and fails to cure this default within five (5) days after Itamar gives Customer written notice of default.

12.2. Upon any such default, Itamar may: (i) declare any and all sums payable as to any and all Products or Service immediately due and payable, without further notice or demand; (ii) without notice, demand, court order or other process of law, repossess any or all Product(s) by any means whatsoever and keep or dispose of said Product(s) according to law; (iii) terminate or suspend Maintenance Service as to any and all Products and suspend any other Itamar obligations; (iv) demand the immediate return of the Device and Consumables; and (v) pursue any other remedies available at law or in equity.

12.3. No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies provided herein or available at law or in equity. Customer shall pay Itamar all costs and expenses, including reasonable attorney's fees, incurred by Itamar in exercising any of its rights or remedies or enforcing any provisions herein or within a Order Form.

12.4. Customer shall not be entitled to a refund of any payments for or Products or license fees payments made prior to any payment default and such prior payments are agreed and acknowledged by the parties hereto to be nonrefundable fees for the use of the Products prior to the default.

12.5. Itamar may also terminate this Lease immediately upon written notice to Customer if: (i) Customer passes a resolution for voluntary winding up or a winding up application is made against it and not set aside within sixty (60) days; or (ii) a receiver or liquidator is appointed for Customer; or (iii) Customer enters into insolvency or bankruptcy proceedings. Customer undertakes to notify Itamar within seven (7) days if any of the aforementioned events occur

13. Assignment, Lease of Products; and Credit Investigations

Itamar may assign or transfer any of its rights or obligations under this Agreement to any other third party without Customer's consent. Customer hereby expressly waives all defenses against Itamar's assignment. Customer shall not have the right to assign or transfer any of its rights or obligations herein to any third party without the prior written consent of Itamar. Customer may assign the purchase rights granted hereunder to a third party leasing company subject to the prior written approval of Itamar and provided that such third party leasing company executes Itamar's standard form of software license agreement. Customer agrees to execute Itamar's form of assignment of purchase rights in conjunction with such lease and all required lease documents ten (10) days prior to the Product delivery. Customer hereby authorizes Itamar to conduct a credit investigation of Customer. If Itamar does not grant credit approval, Itamar may revoke the transaction by written notice.

14. Force Majeure

If performance of any obligation, except for the payments, is prevented, restricted, or interfered with because of fire, natural disaster, labor disputes, law, order, regulation or governmental requirement, war, civil disorder, other violence or any other act or condition, whether foreseeable or not, beyond the reasonable control of the affected party, the affected party shall be excused from such performance to the extent of such prevention, restriction, or interference. The affected party shall give prompt notice and shall resume performance immediately whenever such causes are removed. The affected party shall take reasonable steps to avoid or remove such cause at the earliest possible time, but in any event within ninety (90) days. The other party's only remedy for this non-performance shall be rescission after the ninety (90) day period.

15. Notices

All notices shall be in writing and shall be hand-delivered or sent by courier, certified or registered mail, return receipt requested, or any nationally recognized express mail service. All notices to Customer will be to its address provided in the Order Form. All notices to Itamar will be addressed to: Vice President of Operations, 3290 Cumberland Club Drive, Suite 100, Atlanta, Georgia 30339.

16. General Provisions

16.1. These Terms and Conditions, together with all Order Forms shall be governed by the laws of the State of Georgia, excluding conflict-of-law or choice-of-law principles. Litigation by Customer to enforce its rights may be brought only in a court of competent jurisdiction within the State of Georgia. Itamar may file suit in Georgia or in any jurisdiction where its rights may be threatened, and judgment will be enforceable in any state or country. The parties consent to the exclusive jurisdiction of such courts and consent to the service of process by registered or certified mail.

16.2. These Terms and Conditions, together with all Order Forms, represent the entire agreement between the parties regarding the subject matter, superseding and replacing any additional or inconsistent terms and conditions contained on the face or reverse side of Customer's purchase orders or other standard forms of Customer of whatever date and cancels all prior understandings, written or oral. No amendment, waiver, or cancellation of any part of this Agreement shall be valid unless in writing and signed by an authorized officer of each of Customer and Itamar.

16.3. In the event of a conflict between provisions of these Terms and Conditions and the provisions of any other document, to include but not limited to Itamar's user manual, the more favorable provision in favor of Itamar shall apply. The Order Form may be executed in counterparts, each of which shall be deemed to be an original. The parties may execute and exchange this Lease by imaged copy or facsimile transmission, the copy or transmission of which shall be deemed an original. The parties acknowledge that they each have read and understand the Order Form and These Terms and Conditions and that the same were jointly drafted and, accordingly, neither party shall be favored in the construction, interpretation, or application of any provision or ambiguity. Section headings herein, are used for convenience only and shall not otherwise affect the provisions of these Terms and Conditions.

16.4. Omission by Itamar to remedy a default or enforce rights reserved to it, or to require performance of any of the terms hereof, shall not be a waiver, nor shall it affect the right of Itamar to enforce such provisions thereafter.

16.5. If any provision of a Order Form or these Terms and Conditions is contrary to, prohibited by, or deemed invalid under applicable laws of a jurisdiction in which it is sought to be enforced, then such provision shall be deemed inapplicable and omitted, but shall not invalidate remaining provisions.

17. Export Control and Privacy Regulation Compliance

Customer agrees to comply with all United States government export controls laws including but not limited to the Export Administration Regulations ("EAR", 15 CFR. 730-774) administered by the U.S. Department of Commerce, Bureau of Industry and Security and the International Traffic in Arms Regulations ("ITAR", 22 CFR 120-130) administered by the U.S. Department of State, Directorate of Defense Trade Controls.