

**MERIT MEDICAL SYSTEMS, INC. (“MERIT”)
STANDARD TERMS AND CONDITIONS**

THE CUSTOMER (AS DEFINED BELOW) AGREES TO THESE T&C BY PURCHASING MERIT PRODUCTS UNLESS THE CUSTOMER, AS OF THE PURCHASE ORDER DATE, IS A PARTICIPATING MEMBER OF A GROUP PURCHASING ORGANIZATION OR OTHERWISE HAS ENTERED INTO A WRITTEN AND SIGNED AGREEMENT BETWEEN MERIT AND SUCH CUSTOMER.

1. GENERAL.

- a. **Terms Governing Product Sales.** These Standard Terms and Conditions (the “T&C”) govern all sales of Products by Merit Medical Systems, Inc. (“Merit”) to the individual or company (“Customer”) purchasing any of Merit’s products (“Products”). These T&C take precedence over any terms and conditions provided with any purchase orders or invoices for Products unless Merit and the Customer have entered into a separate written and signed agreement. Any terms or conditions in any purchase order, invoice, acknowledgment, confirmation or other document or communication that Customer may provide to Merit that are inconsistent with or in addition to those set forth in the T&C are expressly rejected by Merit and shall be of no effect, even if signed and returned. Capitalized terms herein will have the meaning as defined herein.
- b. **Product Deletions.** If Merit suspends or discontinues the sale of any Product in the United States, Merit may, in its sole discretion, remove such Product from the product catalog and, if including on a Customer’s purchase order, upon prior written notice to Customer.

2. TERM AND TERMINATION.

- a. **Term.** The T&C remain in effect for any purchase of Products unless: (i) the Customer enters into a separate written agreement with Merit and such agreement is signed by both parties; or (ii) earlier terminated pursuant to the terms herein.
- b. **Termination for Convenience.** Merit may terminate the T&C for any reason upon thirty (30) days’ prior written notice. Customer may terminate the T&C for any reason upon 60 days’ prior written notice.
- c. **Termination for Cause.** Either Party may terminate the T&C for the breach by the other Party of any material term of the T&C. The non-breaching Party shall first give the breaching Party written notice of the alleged breach and a period of at least fifteen (15) days in which to cure the alleged breach. If the breach is not cured within the cure period, the non-breaching Party may terminate the T&C upon written notice to the breaching Party. In addition to any other remedy available at law or in equity, both Parties acknowledge and agree that damages may not be an adequate remedy for the non-defaulting Party and that the non-defaulting Party shall be entitled to enforce its rights hereunder by way of injunction, restraining order or other relief to enjoin any breach or default of the T&C.
- d. **Effect of Termination.** Upon termination or expiration of the T&C for any reason, neither Party shall be released from any obligation arising under the T&C prior to its termination or expiration including payment obligations for shipped Products.

3. ORDERS, SHIPMENT AND PAYMENT.

- a. **Ordering.** Unless other arrangements are approved in writing by both Parties, all purchase orders for Products must be placed by email to orders@merit.com or by Electronic Data Interchange (“EDI”). For more information on EDI, Customer may contact Merit at edi@merit.com. All purchase orders are subject to acceptance by Merit.
- b. **Minimum Quantity.** Merit will ship Products only in the minimum packaging quantity applicable to the Product, generally one (1) box.
- c. **Shipping Terms.** All Products shipped by Merit to Customer are delivered FCA (Incoterms 2020) Merit’s dock, with title and risk of loss to the Products transferring to Customer at Merit’s dock. All transportation costs are the responsibility of Customer. Merit will ship Products via standard ground service carriers, with charges prepaid by Merit and added as a separate line item to the invoice; provided, however, that upon the written request (together with applicable instructions) of Customer, Merit will ship Products by other reasonable means, including expedited and “freight collect” shipping. Customer shall have ten (10) business days from the date of delivery in which to inspect the Product(s) and to accept or reject such Products. In the event Customer, after such inspection, rejects the Products due to nonconformity to the applicable Product Specifications (as defined in Section 5(a)(iii) herein) or due to broken or damaged Products or packaging, Customer shall have the right to return the rejected Products in accordance with the terms and conditions of Merit’s Product Return Policy, a current copy of which is attached as Schedule 1 (“**Merit’s Return Policy**”). All Product returns are subject to Merit’s Return Policy.
- d. **Shipment under Emergency Conditions.** In the event of a natural disaster, a state of emergency as declared by federal, state or municipal governments, or an industry-wide shortage of Products, Merit shall have the right to allocate Products among its customers (including Customer) in any manner that Merit reasonably determines to be equitable.
- e. **Payment Terms.** Full payment shall be made to Merit within thirty (30) days after the date of the applicable invoice. The preferred method of payment is ACH electronic funds transfer or some other form of electronic payment. Payment by paper check must be delivered to Merit on or prior to the due date. In the event that Customer fails to make payment in full within the period set forth above, or within such other time period as may be expressly agreed upon in writing by Merit and Customer, Merit may suspend production, shipment, and/or delivery of Customer’s orders under the T&C, may refuse subsequent orders, or require modified terms on subsequent orders. Any payment not made when due shall bear interest at the rate of one and one-half percent (1.5%) per month, or the maximum rate allowed by applicable law, whichever is less, from the due date of such payment until the date actually paid. Customer shall be responsible for all costs and expenses incurred by Merit in enforcing this T&C, including without limitation, attorneys’ fees and costs or collection.
- f. **Product Shipment.** Standard (non-custom) Products will ordinarily be shipped within three (3) business days after Merit’s actual receipt of a purchase order for the Product. Initial standard Product orders by Customer may require longer lead times. Custom Products (including kits) generally require a six (6) to ten (10)-week lead-time for an initial order shipment. Thereafter, if a stocking or consignment agreement has been signed with respect to the Products, they will be stocked as usual and customary inventory for Customer. Custom Product modifications require an initial six (6) to ten (10)- week lead-time. In the event that Merit cannot ship Product ordered by Customer within the time frames set forth above, Merit will work with Customer to determine what action, if any, should be taken to meet the needs of Customer.

4. COMPLIANCE WITH LAWS AND REGULATIONS.

- a. **General.** Each of Merit and Customer represents, warrants and covenants that it is and, throughout the Term and any extension hereof, shall remain in material compliance with all federal, state and local laws and regulations applicable to its performance pursuant to or in connection with the T&C.
- b. **Discounts.** Each of Merit and Customer acknowledges the intent to establish a business relationship in which rebates, discounts, payments, and credits provided to Customer (“Discounts”), if any, comply with the exceptions to The Medicare Anti-Kickback Statute set forth at 42 U.S.C. 1320a-7b(b)(3) and the “Safe Harbor” regulations regarding discounts set forth in 42 C.F.R. 1001.952(h). The Parties believe that the relationship contemplated by this T&C is in compliance with such requirements. Customer agrees to report all Discounts in accordance with the requirements of The Medicare Anti-Kickback Statute and any other applicable laws or regulations.
- c. **Taxes.** Customer shall pay to Merit the amount of any sales, use or excise taxes or other charges or levies which Merit is required to pay or collect under any applicable law with respect to the sale, shipping, delivery, storage or use of the Products purchased by Customer, as invoiced or upon request. It is Customer’s sole responsibility to provide Merit with timely, complete, accurate, and legible documents necessary to claim a reduction or elimination of withholding taxes. Notwithstanding anything to the contrary herein, Merit reserves the sole right and discretion to withhold tax where it believes it is required to do so under the tax laws of any jurisdiction. Customer hereby relinquishes all claims against Merit arising from or relating to amounts withheld and remitted by Merit to a tax authority.

5. **INDEMNIFICATION.**

- a. **Indemnification by Merit.** Merit hereby agrees to indemnify, defend and hold harmless Customer from and against any and all claims, demands, actions, losses, expenses, damages, liabilities, costs (including, without limitation, interest, penalties and reasonable attorneys’ fees) and judgments arising out of any injury or damage (collectively referred to as “**Liabilities**”) caused by Merit’s breach of the product warranty set forth in Section 6 below or its material obligations under the T&C. Merit shall not be obligated to indemnify or hold harmless Customer to the extent such Liabilities arise from Customer’s misconduct or negligence.
- b. **Infringement Indemnification.** Merit agrees to defend or settle any claim, suit or proceeding brought against Customer so far as it is based on an allegation that any Product infringes a U.S. trademark or patent, and to pay any damages, costs and expenses finally awarded in any such claim, suit or proceeding. Merit shall be relieved of the foregoing obligation unless: (i) Customer promptly notifies Merit of any such claim; (ii) Merit has sole control of the defense and all related settlement negotiations; and (iii) Customer provides Merit with the assistance, information and authority necessary to perform the above. If Customer desires to have separate legal representation in any such action, Customer shall be responsible for the costs and fees of its separate counsel.
- c. **Infringement Remedies.** If a Product is held to infringe and use of such Product is enjoined, or if in Merit’s opinion a Product is likely to become the subject of infringement, then Customer agrees to permit Merit, at Merit’s option and expense to: (i) procure for Customer the right to continue to use the Product or (ii) replace or modify the Product so that it becomes non-infringing and has the same or additional functionality and comparable or improved performance characteristics; or (iii) upon Customer’s return of the infringing Product, refund the consideration paid for such Products as amortized on a straight-line basis over the shelf-life of the Product from the date of delivery, whereupon Merit’s continued liability to Customer will cease.
- d. **Infringement Indemnification Exclusions.** Merit shall have no liability for infringement or any Liabilities related to Products that are (i) modified, changed, or altered by anyone other than Merit; (ii) not used in accordance with all applicable regulatory, state and federal standards, and all drawings, specifications, data sheets, description of goods, package inserts and other materials

provided by Merit (“**Product Specifications**”); (iii) subjected to accident, misuse, neglect, unauthorized repair, tampering, refurbishing, reprocessing, re-sterilization, re-use, testing or improper storage by anyone other than Merit; or (iv) nonconforming, when such nonconformity is caused by a third party, end user, or Customer, or any of Customer’s agents, employees or contractors. Merit shall not be obligated to indemnify or hold harmless Customer to the extent such Liabilities arise from Customer’s misconduct or negligence.

- e. **Indemnification by Customer.** Customer shall indemnify and hold harmless Merit, its directors, officers, employees, agents and insurers from and against any and all Liabilities arising out of the (a) breach of the T&C by Customer, including without limitation, the failure to comply with all applicable laws and regulations; (b) modification, change or alteration of the Product by Customer, unless expressly authorized by Merit; (c) Customer’s use or handling of Product not in accordance with all applicable regulatory, state and federal standards and Product Specifications; (d) accident, misuse, neglect, unauthorized repair, tampering, refurbishing, reprocessing, re-sterilization, re-use, testing or improper storage of the Product by Customer; (e) Customer’s misuse of the Product, or use in an application other than intended by Merit, as described in Product Specifications; (f) improper or unauthorized distribution, marketing, sale, handling or shipping of the Product by Customer; and/or (g) failure of Customer to comply with any applicable laws and regulations or to obtain any licenses or approvals from the appropriate government agencies necessary to purchase and use the Products. Customer shall not be obligated to indemnify or hold harmless Merit to the extent such Liabilities arise from Merit’s misconduct or negligence.

6. **WARRANTY.**

- a. **Limited Non-Transferable Product Warranty.** Merit warrants that all Products sold hereunder (1) shall materially conform to the Product Specifications as the same may be amended from time to time; and (2) are materially free from defects in materials, workmanship and title; provided that: (a) the Products are not modified, changed, or altered by anyone other than Merit, unless such person has been specifically authorized by Merit in writing to make the modification, change or alteration; (b) Customer notifies Merit in writing of the nonconformity no later than ninety (90) days after purchase; (c) the Products are used in accordance with all applicable regulatory, state and federal standards and Product Specifications; (d) the Products are not subjected to accident, misuse, neglect, unauthorized repair, tampering, refurbishing, reprocessing, re-sterilization, re-use, testing or improper storage by anyone other than Merit; and (e) the nonconformity is not caused by a third party, end user, or by Customer, or its agents, employees, or contractors. Technical advice furnished by Merit regarding use of the Products, other than the approved Product labeling and any “Indications for Use”, is provided without warranty, duty, or compensation of any kind, and Merit assumes no obligation or liability therefore, all such advice being given and accepted strictly “AS IS” and at Customer’s sole risk. The Products are not intended for resale. Any resale of Products by Customer voids all product warranties, both express and implied.
- b. **Remedy.** In the event of a breach of the product warranty in this Section 6, Merit shall either repair or replace the Products at Merit’s expense; or in lieu of repair or replacement, Customer may, in its sole discretion, elect to have Merit refund the full cost of defective Products to Customer subject to the terms of Merit’s Return Policy.
- c. **WARRANTY DISCLAIMER.** MERIT NEITHER MAKES, NOR SHALL HAVE ANY LIABILITY TO CUSTOMER, ITS END-USERS OR TO ANY THIRD PARTY HEREUNDER, ANY WARRANTY EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION. MERIT DISCLAIMS AND EXCLUDES ANY AND ALL OTHER EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION THE IMPLIED

WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE
AND ANY WARRANTIES PROVIDED BY AGENTS OF MERIT OUTSIDE OF THIS T&C.

7. **LIMITATION OF LIABILITY.** In no event shall either party be liable to the other party for lost opportunity, revenue, data, use or profits, costs of procurement of substitute goods or services, interruption in service, or for any indirect, incidental special or consequential damages, incurred by either party, whether in an action in contract, tort, breach of warranty or other cause of action or theory of liability, arising out of or related to the agreement, irrespective of whether the other party has been advised of the possibility of such damages.
8. **PRODUCT RECALL.** Merit may be required by a regulatory agency to recall products or merit may voluntarily initiate a recall of one or more of the products. Customer agrees to report promptly to merit any complaints or other information regarding the product of which it becomes aware that could reasonably be expected to lead to recall or other regulatory action. Customer will cooperate with and assist merit in locating and retrieving the recalled products. In all cases of recalled products, merit shall replace the product and reimburse customer for shipping charges incurred in returning the non-conforming product to merit and merit shall have no further obligation to customer with respect to the recall. Customer will make its records available to merit in the event of a product recall or other quality-related issue upon merit's reasonable request and expense.
9. **INSURANCE.** Each party shall maintain adequate amounts of product liability, general public liability and property damage insurance under a policy of self-insurance or with reputable carriers with respect to their own responsibilities hereunder.
10. **CONFIDENTIALITY.**
 - a. **Confidential Information.** In connection with the T&C, Merit may have disclosed, and may from time to time in the future disclose, either orally or in writing (by whatsoever media, including, without limitation, electronic media), by inspection, or by samples, certain information as to the Products, prices, or Merit and/or the business, products, or operations of Merit and the terms and conditions of the T&C, that is non-public, confidential or proprietary in nature (collectively, the "**Confidential Information**"). Confidential Information does not include information that (i) is or becomes generally available to the public other than as a result of disclosure by Customer or its representatives; (ii) becomes available to Customer from a source, other than Merit or its representatives, which source Customer reasonably believes is not bound by a duty of confidentiality to Merit; (iii) is known to Customer or its representatives prior to disclosure to Customer by Merit or its representatives; or (iv) is independently developed by Customer or its representatives.
 - b. **Protection of Confidential Information.** The disclosure and use of any Confidential Information to Customer and/or its representatives has been and will be solely for the purpose of enabling Customer to evaluate Merit and the Products and to perform its duties under the T&C (the "**Purpose**"). Customer agrees that it will keep the Confidential Information strictly confidential and will not, without the prior written consent of Merit, disclose Confidential Information to any other person, or use in any manner whatsoever other than for the Purpose. Customer shall return or destroy all documents, copies, notes or other materials containing any portion of the Confidential Information upon request of Merit. In the event Customer becomes compelled by applicable law or any applicable governmental authority or regulatory body (by oral questions, interrogatories,

request, demand, or similar process) to disclose any of the Confidential Information, Customer will provide Merit with prompt written notice thereof and Merit may seek a protective order or other appropriate remedy or waive compliance with the provisions of the T&C as to such information. In the event such protective order or other remedy is not obtained, or Merit waives compliance with the provisions of the T&C, Customer will furnish only that portion of the Confidential Information which is legally required to be disclosed.

11. MISCELLANEOUS.

- a. **Relationship of the Parties.** The Parties' relationship hereunder is that of independent contractors. The T&C does not create any employment, agency, franchise, joint venture, partnership or other similar legal relationship between Customer and Merit. Neither Party has the authority to bind or act on behalf of the other Party.
- b. **Notices.** Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by facsimile, (d) by electronic mail, or (e) by a commercial overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be addressed: (i) if to Customer, at the address set forth on the purchase order; (ii) if to Merit, at 1600 W. Merit Pkwy, South Jordan, UT 84095 Attn: Legal Department; (iii) or to such other address as either party may designate from time to time in accordance with this Section. A notice is effective only (a) upon receipt by the receiving Party and (b) if the Party giving the notice has complied with the requirements of the Section.
- c. **Force Majeure.** Except for the obligation of Customer to timely pay invoices for shipped Product, the obligations of either Party to perform under the T&C will be excused during each period of delay caused by acts of God, acts of war, insurrections, acts of terrorism, shortages of power or materials, government orders, epidemics or pandemics (e.g., COVID-19), or any other event or circumstance which is beyond the reasonable control of the Party obligated to perform (“**Force Majeure Event**”). In the event that either Party is unable to perform its obligations under the T&C due to the occurrence of a Force Majeure Event, such Party shall: (1) immediately notify the other Party in writing of such Force Majeure Event and its expected duration; (2) take all reasonable steps to recommence performance of its obligations under the T&C as soon as possible. In the event that any Force Majeure Event delays a Party’s performance for more than thirty (30) days following notice by such Party pursuant to the T&C, the other Party may terminate the T&C immediately upon written notice to such Party.
- d. **Governing Law and Venue.** The T&C shall be governed by, and construed in accordance with, the laws of the State of Utah. In any action brought by Merit against Customer under the T&C, venue shall be proper only in a court of competent jurisdiction located in the county and state in which Customer is located. In any action brought by Customer against Merit under the T&C, venue shall be proper only in a court of competent jurisdiction located in the State of Utah, in Salt Lake County. The Parties agree to be subject to personal jurisdiction in, and consent to service of process issued by, a court in which venue is proper under this Section.
- e. **Modification and Waiver.** No modification of the T&C shall be deemed effective unless in writing and signed by each of the Parties. Any waiver of a breach of any provision(s) of the T&C shall not be deemed effective unless in writing and signed by the Party against whom enforcement of the waiver is sought.
- f. **Assignment; Binding Effect.** Neither Party may assign, subcontract, delegate or otherwise transfer the T&C or any of its rights or obligations hereunder, nor may it contract with third parties to perform any of its obligations hereunder except as contemplated in the T&C, without the other

Party's prior written consent, which consent shall not be unreasonably withheld. The T&C shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

- g. **Severability.** If any part of the T&C to which these terms and conditions are appended or incorporated shall be determined to be invalid, illegal, void or unenforceable by any court of competent jurisdiction, then such part shall be reformed, if possible, to conform to the law and, in any event, the remaining parts of the T&C shall be fully effective and operative insofar as reasonably possible.
- h. **Entire Agreement, Headings.** The T&C, including all Exhibits referenced therein, constitutes the entire understanding and agreement between the Parties concerning the subject matter hereof, and supersedes all prior negotiations, agreements and understandings between the Parties, whether oral or in writing, concerning the subject matter hereof; provided, however, that any obligations owed by Customer to Merit under existing agreements shall continue until satisfied in accordance with the terms thereof. The descriptive headings of the sections of the T&C are inserted for convenience only and shall not control or affect the meaning or construction of any provision hereof.
- i. **No Third-Party Beneficiaries.** The provisions of the T&C are for the exclusive benefit of the Parties, and no other person shall have any right or claim against any Party by reason of these provisions or be entitled to enforce any of these provisions against any Party.

SCHEDULE 1 PRODUCT RETURN POLICY

PRODUCT RETURNS:

All returns are subject to Merit's approval. Customer may not return any products unless Customer receives prior written authorization from Merit; Products returned without Merit's prior written authorization will be refused.

PRODUCTS ELIGIBLE FOR RETURN:

The following Products may be returned: (a) Products that breach an applicable Merit warranty ("Defective Products"); (b) Products that are shipped due to Merit's processing error; or (c) standard, unopened, unaltered, non-reprocessed, non-refurbished, and/or non-expired Products that Merit receives within ninety (90) days from the invoice date of the original shipment order and that Merit determines to be in resalable condition. However, obsolete Products, discontinued Products, Products with less than six (6) months of shelf life remaining, custom Products developed for Customer's individual needs, or special-order Products (including custom volume orders) are not returnable under any circumstances.

AUTHORIZATION PROCESS AND CREDIT:

If Merit approves a return request, Merit will provide Customer with a return goods authorization ("RGA") number and return instructions. Returned products must be accompanied by the original order, invoice and/or packing slip, and must include the RGA number on the outside of the box. Products without an RGA will be refused. Upon receipt of the products in good order, Merit may approve the return and credit the purchase price minus a twenty percent (20%) restocking fee to Customer's account. For Defective Products or Products shipped due to Merit's processing error, Merit will pay return freight costs by providing Customer with a return freight account code and Merit will not charge a restocking fee for those Products.

CANCELLATION OF PURCHASE ORDERS:

Purchase orders may be cancelled for non-custom Products within the same business day of the order, provided that the order has not yet been processed. Purchase orders may not be canceled for custom Products and custom volumes once Merit begins production of the custom order.

FREIGHT FOR RETURNED PRODUCTS:

Customer must properly package return Products to prevent damage during shipping and may choose to insure the shipment against damage or loss since Merit will not issue a return credit for Products that are damaged during shipment to Merit, except as set out below. For returned Products, Customer is responsible for all freight charges to and from Merit, except that Merit will be responsible for freight charges and damage during shipping for Defective Products and Products returned due to Merit's processing error.

CONTACT INFORMATION:

To request return authorization, please contact Merit at (800) 356-3748 with return information including the catalog number, lot number, invoice number, invoice date, purchase order number, and the reason for return. Additional information may be required.