GENERAL TERMS AND CONDITIONS OF SALE

All Rockwell Medical, Inc. ("**Rockwell**") sales of Products (as defined below) are subject to and expressly conditioned upon these general terms and conditions of sale ("**Terms and Conditions**"), which are accepted by, and shall be deemed binding on, the Purchaser upon placing an Order. Rockwell reserves the right at any time to change these Terms and Conditions without notice. Rockwell will update its website as these Terms and Conditions are changed, and such update shall become effective immediately upon posting of the modified Terms and Conditions to Rockwell's website. It is Purchaser's responsibility to review the latest version of these Terms and Conditions prior to submitting an Order. Rockwell has no responsibility to notify Purchaser of any changes prior to the effective date of the changes. Any Orders placed after these Terms and Conditions are changed shall be subject to such amended terms and conditions. No variation of the Terms and Conditions will be binding upon Rockwell unless agreed to in writing and signed by an authorized representative of Rockwell.

The following definitions apply to these Terms and Conditions:

"**After Hours Delivery**" shall mean any Order placed (i) outside of Normal Business Hours or (ii) on Rockwell designated holidays.

"**Expedited Order**" shall mean any Order, which may be filled in Rockwell's sole discretion, placed for delivery with less Lead Time than outlined in Section 2.2 of these Terms and Conditions.

"**Force Majeure Event**" shall mean nonperformance or delay of performance caused by strikes, lockouts, concerted acts of workers or other industrial disturbances, fires, explosions, floods, or other natural catastrophes, epidemics, pandemics, civil disturbances, riots, or armed conflict, whether declared or undeclared, curtailment, shortages of power or materials, rationing or allocation of normal sources of supply, labor, materials, transportation, energy, or utilities, market disruptions affecting the availability or cost of raw materials, fuel, energy, freight, or other inputs required for manufacture or supply of the Product, including material or extraordinary increases in such costs arising from shortages, supply chain disruptions, tariffs, trade restrictions, or governmental actions beyond the Company's commercially reasonable control, accidents, acts of God, sufferance of or voluntary compliance with acts of government or governmental regulation (whether or not valid), embargoes, discontinuation of a Product or any other cause which is beyond the commercially reasonable control of Rockwell.

"**Lead Time**" shall mean the time from Order placement to delivery of Product.

"**Non-Serviceable Facility**" shall mean any facility determined by Rockwell to be non-serviceable by Rockwell transportation, requiring the use of a distributor or a third-party logistics (3PL) network.

"**Normal Business Hours**" shall mean Monday through Thursday, 9:00am to 5:00pm ET, Friday 9:00am to 4:00pm.

"**Order**" shall mean any order for Product placed through Rockwell or an authorized distributor.

"**Product**" shall mean Hemodialysis Concentrates including acid and bicarbonate (liquid and powder), Mixers (defined below), blood tubing lines, cleaning agents, and any additional products offered by Rockwell.

"**Purchaser**" shall mean the legal entity purchasing Product.

1. General Terms of Sale.

1.1. **Modification and Discontinuation of Product**. Rockwell reserves the right to change, without prior notice, the design, construction, and type of materials used in the manufacture of any Product(s). Rockwell further reserves the right to discontinue, without prior notice, any Product(s) and/or replacement parts therefor.

1.2. **No Reselling, Transfer or Export**. Purchaser agrees that a Product purchased from Rockwell is not for: (a) resale, transfer, barter or trade to any entity or person; (b) use in the further processing, packaging or filling of other drugs, therapies or devices; or (c) export. Purchaser shall not transfer any Product to any other person or entity except to the person for whom the prescription for the Product is written. Any unused Product, once dispensed or delivered to Purchaser, cannot be transferred to any other patients and must be destroyed in accordance with applicable state or local regulations.

1.3. **Drug and Service State Licensing Requirements.** Purchaser agrees to maintain all state-mandated licenses and permits required to purchase, use, and/or dispense Product. Purchaser shall provide all applicable licenses and permit information to Rockwell promptly upon request.

1.4. **Tax, Tax-Exempt Status and Other Fees.** Purchaser agrees to pay all applicable federal, state, and local taxes and all other fees and costs based on Purchaser's purchase or use of a Product. In the event Rockwell is required to pay such tax, fee or cost, Purchaser shall reimburse Rockwell within ten (10) days of receipt of an invoice from Rockwell.

1.5. **No Prohibited Use of Product.** Purchaser will not use, resell, transfer or distribute any Product directly or indirectly for any unlawful purpose.

1.6. **Mixers**.

(a) Purchaser agrees that Dry Acid Mixer Units ("**Mixers**") sold by Rockwell are approved by the United States Food and Drug Administration (the "**FDA**") solely for the purpose of mixing Rockwell Dry Acid Powder products. Purchaser shall utilize the Mixers solely for the purpose of mixing Rockwell Dry Acid Powder products for clinical use in the hemodialysis clinics in which such Mixers are placed and shall in no way utilize or permit to be utilized the Mixers for any other purpose, including, but not limited to, the use of the Mixers to mix any non-Rockwell dry acid powder product. Should any clinic operated by Purchaser discontinue the purchase or use of Rockwell Dry Acid Powder products (the "**Discontinuance Date**"), Purchaser shall, within thirty (30) days of the Discontinuance Date, return the Mixer to Rockwell, at Purchaser's expense. In the event that the Purchaser does not do so within the thirty (30) day period, Purchaser will pay Rockwell the difference between the contracted Mixer price and the then-current full list price of the Mixer (the "**Mixer Debt Amount**"). Purchaser hereby irrevocably authorizes and empowers any attorney to appear in any court of competent jurisdiction and confess judgment against Purchaser in favor of Rockwell for the full amount of the Mixer Debt Amount, including any accrued interest at the rate of twelve percent (12%) per annum, or the maximum amount permitted by law, whichever is less, from the Discontinuance Date until paid in full, and any costs of suit, including reasonable attorney's fees in an amount equal to two thousand five hundred dollars ($2,500). Purchaser waives the right to notice, the right to a hearing, and the right to assert any defenses or counterclaims in connection with the foregoing. Purchaser acknowledges that it has been fully informed of its rights and the consequences of the foregoing confession of judgment. Purchaser consents to the immediate entry of judgment against it in the amount of the Mixer Debt Amount, plus interest and costs as specified above, in any court of competent jurisdiction. Purchaser represents and

warrants that this confession of judgment is made voluntarily, without any duress or coercion, and after having had the opportunity to consult with legal counsel.

(b) Rockwell shall have the right at any time to physically inspect all Mixers sold to Purchaser for the purpose of Rockwell's verifying Purchaser's compliance with Section 1.6(a). Upon reasonable prior written notice, Purchaser shall provide to Rockwell access to such Mixers for Rockwell's or its designee's inspection thereof, along with all books and records associated with the use, maintenance and repair of such Mixers.

(c) The terms and conditions of Appendix 1 attached hereto shall apply to the purchase of Mixers. This Section 1.6 shall apply to all Mixers acquired by Purchaser, regardless of when acquired.

2. Orders.

2.1. **Orders.** All Orders are subject to acceptance by Rockwell in its sole discretion. All Orders for Product shall be subject to these Terms and Conditions and shall not be subject to the terms, conditions, or provisions of any Order confirmation or Purchaser purchase order, except to the extent that such document specifies quantities. Rockwell will use commercially reasonable efforts to fill Orders, but Rockwell shall not be liable for non-performance or delays caused by a Force Majeure Event. All Orders require use of a valid Order form supplied by Rockwell or a purchase order generated by the Purchaser. In the event of a conflict between an Order form, purchase order and these Terms and Conditions then these Terms and Conditions shall control. Any modification by Purchaser to a contract regarding pricing, terms of sale or any other terms or conditions shall not be effective unless accepted in advance and in writing by an authorized representative of Rockwell. Order quantities must be in the selling unit of measure indicated for the applicable Product.

2.2. **Lead Time for Product Ordering.**

(a) **Order Deadline.** Orders shall be submitted no later than 4:00pm (Purchaser's time zone) on the Monday immediately preceding the Purchaser's scheduled delivery week, unless otherwise communicated due to holiday closures. Orders can be placed via email (custserv@rockwellmed.com), fax (248-960-9015), or online at www.rockwellmed.com/CustomerOrderForm). Orders can be placed via electronic data interchange ("**EDI**") if an EDI protocol has been established and both parties mutually agree to submit orders electronically.

(b) **Late Orders**. Orders received after Monday at 4:00pm (Purchaser's time zone) or after a holiday cutoff, may be available for delivery during the normal delivery week. Any such late orders shall ship via common carrier and shall be subject to additional freight charges. Rockwell's Customer Care team shall notify Purchaser of all applicable charges prior to scheduling. The order shall not be scheduled or processed unless and until Purchaser provides written approval of such charges.

(c) **Off-Schedule Deliveries.** Orders requested for delivery outside the standard delivery schedule shall be subject to a $150 handling fee plus additional freight charges. Rockwell's Customer Care team will communicate the additional charge(s) prior to scheduling. The order shall not be scheduled or processed unless and until Purchaser provides written approval of such charges.

(d) **Urgent Orders.** "Urgent Orders" are orders requiring special handling, including, but not limited to, next-day air, 2-day shipping, 3-day shipping, or weekend or holiday guaranteed delivery. Urgent Orders will be subject to an urgent handling fee of $300 plus applicable freight charges. Purchaser must clearly designate an order as "Urgent" at the time of placement. Urgent Orders must be placed by 11am ET to be considered for same-day shipment. Rockwell's Customer Care team shall notify Purchaser of all applicable additional charge(s) prior to scheduling. The order shall not be scheduled or processed unless and until Purchaser provides written approval of such charges.

(e) **Delivery Guidelines for Orders Shipped via Rockwell Transportation.** The following apply for orders shipped via Rockwell Transportation:

- Early orders will be sent on Purchaser's next scheduled delivery week unless Purchaser requests an expedited order.
- Delivery schedules are subject to change by Rockwell in consultation with Purchaser.
- Product pricing is inclusive of freight.
- Each order is required to have a minimum weight of 2,000 pounds. Orders that do not meet this minimum weight shall be subject to additional freight charges.
- Rockwell Transportation drivers will facilitate empty drum pickup.

(f) **Delivery Guidelines for Orders Shipped via Third Party Common Carrier Delivery Service.** The following apply for orders shipped via Third Party Common Carrier Delivery Service:

- Orders received Monday by 4pm (Purchaser's time zone) will ship the following week.
- Expected delivery dates provided by Rockwell are estimates only. Shipping, freight, and handling charges are the sole responsibility of Purchaser and will be "pre-paid and add" or otherwise invoiced to Purchaser.
- Freight costs are applied on a per order basis and are calculated based on total product weight of the purchase order.
- Contact Rockwell Customer Care to schedule empty drum pickups.

(g) **Delivery Guidelines for Purchaser's Selected Third-Party Freight**. The following apply for orders shipped via Purchaser's Selected Third-Party Freight:

- Rockwell Customer Care team will coordinate shipment and communicate through Purchaser's specified portal or process.
- Expected pick-up dates provided by Rockwell are estimates only. Shipping, freight, and handling charges are the sole responsibility of Purchaser. Orders may incur additional shipping and handling fees.

2.3. **Minimum Order Charge.** Exemptions will be permitted only for deliveries required to correct Rockwell error. Orders of less than the minimum order quantity of Product as specified from time to time by Rockwell will be subject to additional delivery and handling charges.

2.4. **Cancellations**. After acceptance by Rockwell, Purchaser's Order may not be cancelled or reduced in any amount without Rockwell's written consent. Any other changes to an Order requested by Purchaser will require the prior written approval of Rockwell, which approval may be subject to price adjustments as determined on a case-by-case basis. Refer to Section 2.2 "Lead Time for Product Ordering" for more information related to changes to existing orders.

3. Freight, Distribution, Shipping and Returns.

3.1. **Freight and Distribution.** Published prices for Products may not include costs or surcharges related to delivery/distribution, handling and/or installation, which may be arranged and billed separately, if applicable. All shipments would be considered "contiguous USA only" unless otherwise mutually agreed to in writing by Purchaser and Rockwell.

3.2. **Deliveries.** The following conditions apply to deliveries conducted directly by Rockwell Transportation. While every effort will be made to ensure deliveries conducted by third-party logistics (3PL) or other non-Rockwell delivery services are executed with a similar level of service, exceptions may apply.

- Product(s) shall be delivered to the location listed on the accepted Order form.
- Stated delivery dates are approximate and based upon timely receipt of all necessary information from Purchaser. Rockwell shall make reasonable efforts to meet stated delivery dates. (See Section 2.2)
- Special services related to deliveries may be subject to additional fees.
- Product will be delivered on a pallet or via hand truck. Drivers will deliver product to a designated storage area provided it is reasonably accessible.
- Drivers are prohibited from moving product through any areas where patients are present. This includes hallways, treatment rooms, elevators, or other interior common pathways accessible to patients.
- Purchaser agrees to have a clear, designated storage area where Product can be placed. In the event the designated storage area is not prepared by time of delivery with ample space for the Product to be delivered via hand truck or pallet jack, the driver is permitted to leave the product outside the storage area (with local management's approval) or to arrange for a Product return (fees apply).
- For safety purposes, drivers are not permitted to sort and segregate product, rotate product stock, or load product onto shelves.
- Rockwell is not obligated to schedule additional pickups for empty pallets and drums.

3.3. **Shipping Terms and Risk of Loss.**

- Products shipped FOB Destination (freight prepaid by Rockwell or product shipped on Rockwell trucks); the risk of loss on any such Product shall pass to Purchaser when Product has been delivered to Purchaser's specified location. Unless Purchaser advises Rockwell that it will arrange and take responsibility for shipment of Products from Rockwell's facility, Rockwell will transport the Products using its own vehicles or arrange for a freight forwarder and/or carrier(s) to transport the Products to Purchaser's specified location. If and to the extent Purchaser advises Rockwell that it will arrange and take responsibility for shipment of Products from Rockwell's facility, title to such Products shall pass to Purchaser upon release of the Products to Purchaser or Purchaser's chosen carrier. Special services related to packing and shipping may be subject to additional service fees.

- Products shipped via Parcel, LTL, FTL, and Container. Unless otherwise agreed by Rockwell in writing, all shipments to points in the U.S. (including any Purchaser-requested expedited and overnight deliveries) will be delivered by Rockwell FOB Destination and all shipments to points outside the U.S. will be delivered by Rockwell DAP Destination (as such term is defined in INCOTERMS® 2020). All additional delivery requirements, including, but not limited to, lift gate or inside delivery, must be communicated to Rockwell upon submission of Purchaser's purchase order. Title to and risk of loss or damage for all Products will pass to Purchaser upon Rockwell's delivery of the Products to the destination. Special services related to packing and shipping may be subject to additional service fees.

3.4. **Inspection/Acceptance; Returns**. Purchaser must inspect delivered Products and report claims for defects, damages, shortages or receipt of wrong products which are discoverable on a visual inspection within two (2) business days of customer receipt, or the Product(s) will be deemed irrevocably accepted and such claims will be deemed waived. However, shipping damage claims must be made by Purchaser directly with the shipping company in accordance with such company's policies. Purchaser will advise Rockwell of such shipping damage claims. Returned product is subject to a partial credit, restocking fee and/or the cost of freight. A current version of the complete Rockwell Return Goods Policy can be accessed at www.rockwellmed.com/return-goods-policy/.

3.5. **Lost Product**. A $75.00 charge for lost drums and a $75.00 charge for lost plastic pallets and a $35 charge for lost wood pallets will be applied.

3.6. **Storage, Handling and Use**. Purchaser shall: (i) store, handle and distribute its inventory of Products in clean, sanitary and temperature-controlled conditions as required to maintain the quality and traceability of the Products, and in accordance with FDA approved labeling for the Products; (ii) not alter the Products in any manner; (iii) comply with all applicable laws in connection with the storage, handling, distribution and use of the Products; and (iv) not make any false or misleading representations to customers or others regarding the Products. Purchaser shall ensure that the Products are used in accordance with all applicable operating manuals and instructions.

3.7. **Custom Products.** Rockwell custom Products require a minimum commitment of one thousand (1,000) gallons and contain a fifteen percent (15%) price premium per Product ordered and must be purchased and delivered within six (6) months or less. Any custom Product ordered but not purchased and delivered within the six (6) months shall be invoiced to Purchaser and subsequently delivered with charges applied.

3.8. **Alternate Delivery**. If Purchaser chooses to have Products delivered through a third-party logistics (3PL) provider, Rockwell retains the right to adjust price appropriately or levy an additional charge for delivery. If a facility is a Non-Serviceable Facility, Rockwell retains the right to charge Purchaser separately for delivery.

3.9. **Product Recall**. Rockwell will notify Purchaser promptly upon the occurrence of a Recall (defined below) for any Products purchased by Purchaser directly from Rockwell. Rockwell shall be responsible for implementing the Recall and upon Purchaser's reasonable request, Purchaser shall fully cooperate with Rockwell to implement the Recall. The Products subject to Recall shall be deemed non-conforming and Rockwell shall pay to Purchaser, with respect to Products manufactured by Rockwell, Purchaser's reasonable, documented out-of-pocked expenses incurred in connection with such Recall, provided such expenses are preapproved by Rockwell. With respect to Products not manufactured by Rockwell, Purchaser may submit a claim for such recalled Products pursuant to Section 5.1(d). "**Recall**"

shall mean any action by Rockwell or any governmental authority whether voluntary or involuntary, to recover title to or possession of Products sold or shipped, including Product recalls, market withdrawals, and field corrective actions.

4. Billing and Payment.

4.1. **Terms of Sale.** Billing and payment shall be in US Dollars, unless otherwise agreed in writing by the parties. All Orders are subject to credit approval and acceptance by Rockwell. Standard payment terms are net thirty (30) days from the date of invoice. Payment terms are in effect as of the date of the Order. Payment shall be made to: 3498 Paysphere Circle, Chicago, IL 60674. Credit card payments are subject to approval by Rockwell's credit and collections department and are subject to an additional fee. Contact your Customer Care Representative for more details. A service charge of one and one-half percent (1½%) per month (or the highest amount allowed by applicable law, if lower) shall be added to all amounts past due. Additionally, Rockwell reserves the right to require all pending and future orders to be on a prepaid basis.

4.2. **Prices.** Product is priced at the amount indicated for the selling unit of measure ordered. Prices and specifications are subject to change without notice. All shipments are billed at the price in effect on the date of the Order. Product is billed upon shipment. Product prices are exclusive of all taxes, shipping/distribution costs or surcharges, handling costs or surcharges, discounts or rebates. Rockwell may further change the prices of Product(s) at any time and without prior notice unless Rockwell otherwise agrees in writing to expressly provide prior notice to Purchaser.

4.3. **Discount Disclosure Statement.** Any discounts, rebates, incentives, or other reductions in price issued by Rockwell to Purchaser under these Terms and Conditions may constitute a discount within the meaning of 42 U.S.C. §1320a-7b(b)(3)(A) and/or 42 U.S.C. §1320a-7b(b)(3)(C). Purchaser may have an obligation to properly disclose and appropriately reflect such discount to any state or federal program that provides cost or charge based reimbursement to Purchaser for the items to which the discount applies. Purchaser agrees to make proper disclosures of any and all discounts, rebates, credits, reimbursement and other like programs. Purchaser agrees to comply with all applicable laws when seeking reimbursement from any government entity for Products supplied under these Terms and Conditions. Rockwell will report all discounts on the invoices, coupons or statements submitted to Purchaser. Where the value of a discount is not known at the time of sale, Rockwell will report the existence of the discount program on the invoices, coupons or statements submitted to Purchaser, and when the value of the discount becomes known, provide Purchaser with documentation of the calculation of the discount identifying the specific goods or services purchased to which the discount will be applied. For Product provided to Purchaser, Purchaser acknowledges the value of such Product. Purchaser further acknowledges that this dollar value is a "discount or other reduction in price" on the Product under Section 1128B(b)(3)(A) of the Social Security Act (42 U.S.C. 1320-a-7b(b)(3)(A)). Purchaser shall disclose the discount or other reduction in price under any state or federal program which provides cost or charge-based reimbursement to Purchaser.

4.4. **Security Interest**. To secure all of Purchaser's obligations to Rockwell hereunder, Rockwell hereby reserves and Purchaser hereby grants to Rockwell a purchase money security interest in all Products purchased by Purchaser from Rockwell, all inventory consisting of Products purchased from Rockwell, together with any and all proceeds and other amounts from time to time paid or payable under or in connection with any of the foregoing, upon sale, lease, rental or other disposition or otherwise, whether permanent or temporary and whether voluntary or involuntary, including, without limitation, any and all rents, lease payments, money, cash or cash equivalents, accounts receivable, contract rights, chattel paper, documents, instruments, deposit accounts and general intangibles now existing or hereafter arising from or related to such

property. Purchaser hereby authorizes Rockwell to file any and all documents or instruments, including without limitation, financing statements and continuation statements, which are reasonably necessary to perfect or continue such security interest. Upon the occurrence of any default by Purchaser under these Terms and Conditions, Rockwell shall have all rights provided by the Uniform Commercial Code and otherwise available by law.

4.5. **Credit Availability**. Rockwell may terminate any credit availability within its sole discretion. Purchaser understands that Rockwell is relying on the truth and accuracy of the information provided to Rockwell in any application for credit, as well as any other information provided to Rockwell such as financial statements. Purchaser authorizes Rockwell to conduct any credit investigation of Purchaser deemed necessary, including, but not limited to personal credit information about guarantors, general partners, proprietors and individual applicants. Purchaser hereby explicitly authorizes trade and bank references to release credit information to Rockwell.

4.6. **Credit and Disputes.**

(a) Only amounts which are disputed in good faith may be withheld from payment pending resolution. Any portion of an invoice not in dispute must be remitted within the payment terms of each sale. All disputes must be submitted in writing to Rockwell's credit and collections department within thirty (30) days from the date of invoice. All disputes or rights are waived unless the Purchaser's complaint has been received by Rockwell within such thirty (30) day period.

(b) If Purchaser disputes an invoice or portion of an invoice and such dispute is invalid or incorrect, Purchaser will pay additional charges referenced above (in Section 4.1) on any unpaid amounts in dispute. Such charges will begin to accrue on the date payment was originally due.

(c) Rockwell reserves the right to place a hold on Product(s) deliveries to Purchaser should Purchaser continue to withhold payment after multiple attempts to obtain an approved payment commitment.

(d) Purchaser will be liable to Rockwell for all costs incurred by Rockwell in its collection of any amounts owed by Purchaser which are not paid when due, including collection agencies' and attorneys' fees and expenses, regardless of whether a lawsuit is commenced.

5. Warranties.

5.1. **Product Warranty.**

(a) **Rockwell Products.** Subject to the terms below, Rockwell warrants that a Product manufactured by Rockwell will be free of defects, within AAMI standards, manufactured pursuant to FDA's Good Manufacturing Practices (GMPs), and otherwise in compliance with all FDA statutes and regulations for the following periods (the "**Warranty Period**"). The warranty does not apply to any Product that is expired, misused, abused, neglected, improperly stored, tampered with or damaged intentionally or by accident (including during shipment), in which case such warranty is void and of no effect. There are no other express or implied warranties, including any warranty of merchantability or fitness for a particular purpose. Except as provided in Section 3.4, notice of a defective Product under warranty must be given to Rockwell in writing within ten (10) days following the discovery of such defect. Any oral or written statement concerning the Products inconsistent with the limited warranty set forth herein will be of no force or effect.

(b) **Disposable products**. Disposable products are warranted for single use only. The Warranty Period will not in any case exceed the expiration on the Product Label.

(c) **Mixers**. Rockwell warrants that the Mixers will be free from defects in material and workmanship, under normal use and service, for a period of one (1) year from the date of delivery (the "**Warranty Period**"). This warranty is limited to the repair or replacement, at Rockwell's option and cost, of any defective Mixers during the Warranty Period, provided that Purchaser promptly notifies Rockwell in writing of the defect within the Warranty Period. The warranty provided in this Section does not cover: (a) damage or defects resulting from misuse, abuse, neglect, accident, force majeure or improper installation or maintenance; (b) damage or defects resulting from unauthorized alterations or repairs; (c) normal wear and tear; or (d) consumable parts or accessories. The warranty provided in this Section shall immediately become null and void if a Mixer is used for any purpose other than to mix Rockwell Dry Acid Powder products.

(d) **Non-Rockwell Manufactured Products**. Any Products sold by Rockwell but not manufactured by Rockwell will carry the original manufacturer's warranty, copies of which are available on request. Unless otherwise advised, Rockwell will permit Purchaser to submit warranty claims regarding such Products to Rockwell, which will then proceed against the original manufacturer on behalf of Purchaser in accordance with such manufacturer's warranty policy. Rockwell shall have no obligation to enforce or guarantee such warranty. ROCKWELL MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCT SOLD BY ROCKWELL THAT IS NOT MANUFACTURED BY ROCKWELL, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

(e) THE WARRANTY IN THIS SECTION SHALL BE IN LIEU OF ANY OTHER WARRANTY EXPRESSED OR IMPLIED OR STATUTORY, AND ROCKWELL MAKES NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ROCKWELL'S SOLE OBLIGATION AND PURCHASER'S SOLE AND EXCLUSIVE REMEDY IN CONTRACT, TORT OR UNDER ANY OTHER THEORY AGAINST ROCKWELL WITH RESPECT TO THE PRODUCT SHALL BE, AT ROCKWELL'S OPTION, REFUND OF THE PURCHASE PRICE FOR THE PRODUCT BY CREDITING PURCHASER'S ACCOUNT OR THE REPLACEMENT OF THE PRODUCT, AND NO OTHER REMEDY OR DAMAGES THAT ARE OR INCLUDE LOST REVENUES, LOST PROFITS, COST OF REPLACEMENT OR COMMERCIAL LOSS, OR ANY OTHER PROXIMATE, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES SHALL BE AVAILABLE TO PURCHASER. ROCKWELL SHALL HAVE NO FURTHER OBLIGATION OR LIABILITY WITH RESPECT TO PRODUCT, OR ITS SALE, OPERATION AND USE, AND ROCKWELL NEITHER ASSUMES, NOR AUTHORIZES THE ASSUMPTION OF, ANY OBLIGATION OR LIABILITY IN CONNECTION WITH SUCH PRODUCT.

6. Limitation of Liability and Remedies. UNDER NO CIRCUMSTANCES WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR, AND EACH PARTY HEREBY EXPRESSLY WAIVES, ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, AND ANY BUSINESS LOSSES, LOSS OF PROFITS OR RELIANCE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER ARISING OUT OF WARRANTY OR CONTRACT, NEGLIGENCE OR OTHER TORT, OR OTHERWISE. PURCHASER AGREES THAT UNDER NO CIRCUMSTANCES WILL ROCKWELL'S LIABILITY RELATING TO ITS SALE OF PRODUCTS TO PURCHASER FOR ANY CAUSE EXCEED THE

PURCHASE PRICE PAID BY PURCHASER FOR THE PARTICULAR PRODUCTS INVOLVED. NOTWITHSTANDING ANYTHING IN THESE TERMS AND CONDITIONS TO THE CONTRARY, THE REMEDIES SET FORTH IN THESE TERMS AND CONDITIONS WILL APPLY EVEN IF SUCH REMEDIES FAIL THEIR ESSENTIAL PURPOSE. NO ACTION MAY BE BROUGHT BY PURCHASER AGAINST ROCKWELL AFTER 12 MONTHS FROM THE DATE OF DELIVERY OF THE PRODUCT, EQUIPMENT AND/OR SERVICES, AND PURCHASER ACKNOWLEDGES AND AGREES THAT THIS PROVISION SHALL BE GROUNDS FOR DISMISSAL OF ANY SUIT OR CLAIM ASSERTED BY PURCHASER AFTER SUCH TIME.

7. **Indemnification.** To the fullest extent permitted by law, Purchaser will indemnify, defend, and hold harmless Rockwell, including Rockwell's officers, directors, agents, employees, subsidiaries, affiliates, parents, successors, and assigns, from and against any claim, demand, cause of action, debt, liability, loss, fine, damage, or expense (including reasonable attorneys' or legal fees, expenses, and court costs) (collectively, "**Liabilities**") that arises out of or relates to: (i) Purchaser's modification of or addition to any Product(s); (ii) Purchaser's breach of these Terms and Conditions; (iii) Purchaser's gross negligence or willful misconduct; or (iv) Purchaser's failure to abide by all applicable laws, rules, regulations, instructions and orders that relate to the Products or the use thereof. Rockwell at its sole option shall have the right to defend at Purchaser's expense any such Liabilities in which either Rockwell or both Rockwell and Purchaser are named as defendants, or reasonably are expected to be named, and Rockwell shall not be obligated to mitigate losses. Rockwell's conduct of the defense shall not diminish Purchaser's obligation to indemnify Rockwell hereunder. No settlement of such claim shall be made unless such settlement provides a complete and unconditional release of Rockwell. Rockwell has the right to approve counsel or be represented by independent counsel of its own selection. This indemnity shall continue in full force and effect subsequent to Rockwell's fulfillment of an Order and/or completion of its obligations hereunder.

8. **Confidential Information**. Purchaser may obtain access to or become familiar with trade secrets and confidential information of Rockwell, including without limitation, Product specifications, prices, discounts, manufacturing costs, ideas and technical data ("**Confidential Information**"). Purchaser will hold Confidential Information in confidence and will not use or disclose such information without Rockwell's prior written consent.

9. **Medical Devices**. If any of the Products are medical devices, Purchaser acknowledges that it is familiar with the U.S. Safe Medical Devices Act of 1990 as amended (the "**Devices Act**") and the reporting obligations imposed on device users thereunder. In this regard, Purchaser agrees to notify Rockwell within ten (10) days of the occurrence of any event identified in the Devices Act imposing a reporting obligation on Purchaser and/or Rockwell (except for events representing an imminent hazard that require notification to the FDA within seventy-two (72) hours (or such shorter time as required by law), in which case, such notice will be delivered to the FDA and Rockwell within said period). Purchaser will maintain adequate tracking for the Products to enable Rockwell to meet the FDA requirements applicable to the tracking of medical devices.

10. **Federal Program Participation**. Purchaser represents and warrants that neither it nor any of its current directors, officers, or key personnel: (i) are currently excluded, debarred or otherwise ineligible to participate in federal health care programs as defined in 42 U.S.C. §1320a-7b(f) (the "**Federal Healthcare Programs**"); (ii) have been convicted of a criminal offense related to the provision of healthcare items or services during the last five (5) years; or (iii) have been excluded, debarred or otherwise declared ineligible to participate during the last five (5) years in Federal Healthcare Programs. Purchaser will promptly notify Rockwell of any change in the status of the representations and warranties set forth above.

11. Miscellaneous.

11.1. **Data Collection**. Purchaser acknowledges that Rockwell collects and uses customer data to facilitate the purchase and delivery of Rockwell's products. More detailed information can be found in Rockwell's Privacy Policy located on Rockwell's website: www.rockwellmed.com/privacy-policy.

11.2. **No License**. Purchaser acknowledges that Rockwell is the exclusive owner or licensee of all rights, title and interest in and to the intellectual property embodied in, related to, or associated with Product(s). The sale of Products by Rockwell does not constitute a license, implied or otherwise, for the use of any patents, trademarks, copyrights, know-how or other intellectual property of others, nor does it constitute a license, implied or otherwise, of any patents, trademarks, copyrights, know-how or other intellectual property of Rockwell, except to the extent that the intended use of such Product itself is covered by the claims of a Rockwell patent.

11.3. **Export**. Purchaser acknowledges that the Products sold under these Terms and Conditions, and the transactions contemplated by these Terms and Conditions, are subject to U.S. customs and export control laws and regulations and may also be subject to the customs and export laws and regulations of the country in which the Products are received. Purchaser acknowledges and agrees that it is Purchaser's sole responsibility to comply with and abide by those laws and regulations as applicable. Further, Purchaser acknowledges and agrees that under U.S. law, the Products shipped pursuant to these Terms and Conditions may not be sold, leased, or otherwise transferred to restricted countries, any person or entity on the Specially Designated Nationals and Blocked Persons List published by the Office of Foreign Assets Control of the U.S. Department of the Treasury, or utilized by restricted end-users or an end-user engaged in activities related to weapons of mass destruction, including, without limitation, activities related to the design, development, production or use of nuclear weapons, materials, or facilities, missiles or the support of missile projects, or chemical or biological weapons.

11.4. **Headings**. The section headings used herein are for convenience of reference only and do not form a part of these Terms and Conditions, and no construction or inference will be derived therefrom.

11.5. **Governing Law/Venue**. These Terms and Conditions, any sales hereunder, and any claim, dispute, or controversy between Purchaser and Rockwell arising from or relating to these Terms and Conditions, its interpretation, or the breach, termination, or validity thereof, will be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflicts-of-law rules. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, these Terms and Conditions shall be brought in a state or federal court located in Delaware and each of the parties to these Terms and Conditions hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. PURCHASER IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS OR THE TRANSACTIONS CONTEMPLATED HEREBY.

11.6. **Entire Agreement, Amendments and Modifications**. These Terms and Conditions constitute the entire agreement between the parties regarding the subject matter hereof. No purported amendment or modification of any provision hereof will be binding unless set forth in writing and signed by an authorized representative of each party. No waiver of any provision hereof will be effective unless in

writing and signed by an authorized representative of the waiving party. Any waiver will be limited to the circumstance or event specifically referenced in the written waiver document and will not be deemed a waiver of any other term of these Terms and Conditions or of the same circumstance or event upon any recurrence thereof. The failure of either party to enforce any provision of these Terms and Conditions at any time will not be construed to be a waiver of such provision nor of the right of such party thereafter to enforce such provision. Failure of Rockwell to object to provisions contained in any Order or other communication from Purchaser shall not be construed as a waiver of these Terms and Conditions, or an acceptance of any other terms. Any term or condition, which by its nature survives Rockwell's fulfillment of an Order and/or completion of its obligations hereunder, including but not limited the provisions on warranty, limitation of liability, indemnity, intellectual property and confidential information, shall survive Rockwell's fulfillment of an Order and/or completion of its obligations hereunder.

11.7. **Validity**. If any provision of these Terms and Conditions is held to be invalid or unenforceable in any respect, the remaining terms and conditions will remain in full force and effect as if such invalid or unenforceable provision had not been included herein.

11.8. **Assignment**. Purchaser may not assign, delegate, or permit any other transfer of these Terms and Conditions (by stock sale, merger, or otherwise) without Rockwell's prior written consent.

11.9. **Third Party Beneficiaries**. The transactions between Purchaser and Rockwell shall not be construed to confer or create a third-party beneficiary relationship with any other entity.

11.10. **Independent Contractors**. No provision of these Terms and Conditions or an Order will be deemed to create a partnership, joint venture, or other combination between Rockwell and Purchaser. Rockwell and Purchaser are independent contractors. Neither party will make any warranties or representations or assume any obligations on the other party's behalf. Neither party is or will claim to be a legal representative, partner, agent, or employee of the other party. Each party is responsible for the direction and compensation, and is liable for the actions of, its employees and subcontractors.