Spacelabs Healthcare
Terms of Sale

1. Terms of Agreement. This agreement for the sale of equipment ("Equipment"), the license of Software (as defined below) and/or the provision of services (“Service”), collectively "Products” by Spacelabs Healthcare ("Spacelabs”) shall be only upon the terms of the Spacelabs Customer Quotation applicable to the Product and the terms herein stated (the “Agreement”). Any additional or different terms, including terms in any purchase order, will be of no effect unless expressly accepted in writing by Spacelabs. Spacelabs’ performance shall not, under any circumstances, be deemed Spacelabs’ acceptance of any of the terms and conditions contained in any Customer document. If Customer issues a purchase order or other Customer document to procure the Products, then such issuance shall be deemed to constitute Customer’s acceptance of these Terms of Sale. Acceptance of or payment for the Products shall also be deemed to constitute Customer’s acceptance of these Terms of Sale.

2. Purchase Price. The purchase price for Equipment and Service and the license fee for Software shall be as set forth in the Spacelabs Customer Quotation. Such price assumes delivery of Equipment and Software within 12 months, shipped FOB manufacturing facility for shipments within the U.S. and Ex Works for shipments outside the U.S. Prices do not include taxes, shipping and handling, or insurance, which are the responsibility of Customer. Spacelabs may partially ship orders, and will be responsible for any additional shipping charges resulting from partial shipments.

3. Payment Terms. Thirty (30) days after date of invoice. Spacelabs reserves the right to change Customer's payment terms or suspend shipments if Customer's financial creditworthiness or payment history fails to meet commercially acceptable standards as reasonably determined by Spacelabs. Customer agrees to pay collection expenses and legal fees incurred by Spacelabs in collecting past due balances.

4. Customer Reporting. Customer agrees to properly report and disclose any discounts granted by Spacelabs to Customer on the purchase of Products, to the extent required by applicable state or federal law.

5. Software License

   5.1. License. The term "Software" means firmware, standalone software, and updates, upgrades, or new versions of such software as are provided by Spacelabs to Customer. Spacelabs grants Customer a perpetual and nonexclusive license to install and use the Software in machine readable executable object code on the Equipment for which it was designated by Spacelabs in accordance with the Software's documentation and the Customer Quotation. Except for Software identified in the Customer Quotation as having an enterprise license, and which can be used throughout Customer’s facility, Customer is entitled to use the Software only on a single computer or terminal at any one time, unless otherwise authorized by Spacelabs. Customer has no right to sublicense the Software. This license is non-transferable except as appurtenant to a Spacelabs-authorized transfer of the related Equipment; provided that, in the event of any such transfer, Customer shall deliver a copy of this Software License to the transferee and shall ensure that such transferee agrees to be bound by this Software License. Customer's license to use the Software shall commence upon the earlier of: (i) the execution by Customer of an agreement with Spacelabs containing these Software terms; (ii) Customer's opening of the Software packaging; or (iii) Customer's commencement of use of the Software.

   5.2. Third Party Software. The Equipment or Software may utilize certain Software purchased under license from third party authors (“Third Party Software”). Transfer of such Third Party Software to Customer from Spacelabs is on the terms of the license granted by the original licensor. Customer acknowledges and agrees that Spacelabs’ suppliers, including Third Party Software vendors, are third party beneficiaries of this agreement entitled to enforce its terms directly with respect to the Products, or elements thereof, that they provide.

   5.3. Limitations. Customer hereby expressly acknowledges that Spacelabs and its Third Party Software suppliers own throughout the world all right, title and interest in the Software, any copies thereof and all intellectual property rights contained or embodied therein including the ownership to any modifications or translations of the Software. No title to or ownership of Software or the patent, copyright, trademark, trade secret or other proprietary rights to such Software is transferred to Customer; Customer only receives a license to the Software. Customer shall not take any action in violation of Spacelabs' or any Third Party Software author's copyright or other intellectual property rights in the Software. Customer shall not: (i) trace, disassemble, decompile, modify or reverse engineer such Software; (ii) copy or transfer the Software or any part thereof, except as expressly permitted by applicable law and except as occurs in the ordinary course of using the Software in accordance with its documentation; or (iii) rent or lease the Software to any third party. When information regarding the internal structure of the Software is necessary in order to obtain interoperability of the Software with other software programs, Customer shall contact Spacelabs to obtain such information. Spacelabs may terminate any license granted hereunder if Customer breaches its obligations under the terms of this Agreement. Upon termination, Customer must destroy or return all copies of the Software.

   5.4. U.S. Government Rights: Commercial Computer Software and Documentation, Use Governed by Standard Commercial License. If Software is being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), then the U.S. Government (and any prime contractor or subcontractor at any

tier) hereby acknowledge and agree that this Software and any data relating thereto or derived therefrom are "commercial items" as defined in 48 C.F.R. 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. 12.212. If the end user is a U.S. Government agency, department, or instrumentality, then the use, duplication, reproduction, release, modification, disclosure or transfer of the Software and any data relating thereto or derived therefrom, is restricted in accordance with 48 C.F.R. §12.211, 48 C.F.R. §12.212, 48 C.F.R. §227.7102-2, and 48 C.F.R. §227.7202, as applicable. The object code of the Software and documentation are copyrighted and published products of Spacelabs (except source code, which is copyrighted but unpublished), and all rights not granted expressly herein are reserved.

5.5. Products of Other Manufacturers. The right to use other manufacturers' products in connection with the Software shall be limited to products specified by Spacelabs. Customer shall remain solely responsible for: (i) the suitability of the Software as part of any system based on Software and on equipment of other manufacturers; (ii) the verification of the mutual compatibility of Software and the products of other manufacturers; and (iii) the intended purpose, limits of use and adequacy in the labeling and instructions for use of systems based on Software and on products of other manufacturers.

5.6. Upgrades. Should Customer receive any copy of the Software to upgrade a previous version of such Software, such upgraded version of the Software shall be the only version Customer is entitled to use unless otherwise agreed and permitted by Spacelabs. Customer shall destroy or erase all program material and related documentation, including all copies and modifications, relating to the previous Software.

5.7. Infringement Claims. If any third party alleges in a claim against Customer that all or a part of the Software licensed hereunder as used within the scope of the license infringes any intellectual property rights in the country in the territory of Customer's domicile or main place of business (the Indemnified Claim"), Spacelabs will defend the Indemnified Claim at its expense and will indemnify and hold Customer harmless against any judgment with respect thereto. This defense and indemnification obligation is contingent upon: (i) Customer giving Spacelabs prompt written notice of any claim; (ii) Spacelabs being granted control of the defense, compromise or settlement of such claim; and (iii) Customer’s assistance to the extent reasonably required for such defense. In the event Spacelabs receives information concerning an intellectual property infringement claim (including an Indemnified Claim) related to the Software it may, at its expense and without obligation to do so, upon notice to Customer to cease use of the allegedly infringing Software, either: (i) procure for Customer within a commercially reasonable period of time the right to continue to use the allegedly infringing Software; (ii) replace or modify the Software to make it non-infringing, or (iii) repay the license fees paid to Spacelabs for such Software, in which event Customer shall discontinue all use of such Software and Spacelabs’ obligations under this Section shall terminate with respect to such Software.

5.8. Infringement Liability Limitations. Spacelabs shall have no liability for any intellectual property infringement claim based on: (i) Customer’s use of the Software after Spacelabs’ notice that the Customer should cease use of the allegedly infringing Software; (ii) combination of the Software with a product, program or data not authorized by Spacelabs; or (iii) Customer’s adaptation or modification of the Software. For all claims described in this Section Customer agrees to indemnify and defend Spacelabs, its affiliates and suppliers (including Third Party Software suppliers) from and against all damages, costs and expenses, including reasonable attorneys' fees.

5.9. Audit Rights. Spacelabs and any Third Party Software provider shall have the right, as regards their Software, to inspect and audit, at any time during normal business hours during the applicable Software license and for three years thereafter, Customer’s use of the Software to verify that the Customer’s use has not exceeded the scope of the license rights purchased. Spacelabs or, as applicable, the Third Party Software provider shall conduct no more than one audit in any 12 month period. In the event that any such inspection or audit reveals that Customer has exceeded the scope of the applicable license, Spacelabs shall deliver written notice of noncompliance to Customer with an invoice for all fees and other amounts due and unpaid relating to such noncompliance at the then current fee rates together with accrued interest (accruing from the date on which the scope of the license rights purchased by Customer was first exceeded), and Customer shall promptly pay such amounts.

6. Product Warranty.

6.1. Equipment. Equipment manufactured by Spacelabs will be free from defects in material and workmanship and will perform according to the written specifications for the Equipment for a period of 12 months from delivery.

6.2. Software. Spacelabs warrants that it either owns or has the right to license the Software. Spacelabs further warrants that: (i) the Software shall perform in accordance with the specifications contained in Spacelabs' documentation for the Software at the date of delivery; (ii) the media manufactured by Spacelabs on which Software operates shall be free from defects in material and workmanship under normal use for a period of 90 days from the date of delivery by Spacelabs; and (iii) the media not manufactured by but delivered by Spacelabs on which the Software operates will be in accordance with the media manufacturer's warranty.

6.3. Spare Parts: "Spare Part(s)" mean replaceable spare parts used in the Equipment and listed in the Spacelabs Spare Parts Price List. Spare Parts do not include computer products or peripheral devices not manufactured by Spacelabs or produced on Spacelabs' behalf and supplied to Customer. Any original Spare Part for which Spacelabs has supplied a replacement Spare Part shall become the property of Spacelabs. Spare Parts shall be free from defects in material and workmanship for 120 days. Spacelabs reserves the right to us a refurbished part as a replacement Spare Part.

6.4. Supplies and Accessories: Single patient use, disposable or consumable supplies or accessories will be free from defects in material and workmanship at the time the Product packaging is opened. Reusable supplies or accessories Products will be free from defects in material and workmanship for one year from delivery.

6.5. Service Products. Spacelabs warrants that Service will be performed in a prompt, diligent, competent and workmanlike manner, and will be free from defects in material and workmanship for a period of 90 days from completion.

6.6. Third Party Products. Products other than supplies, accessories, and Spare Parts that are manufactured by a third party manufacturer shall carry the warranties given by such third party.

6.7. Conditions and Limitations.

6.7.1. For the warranty to apply, Spacelabs must witness or be able to reproduce the defect. Spacelabs' warranties and obligations will not apply if the defect results from: (i) misuse or abuse of the Product by Customer; (ii) defects caused by normal wear and tear or deterioration of the Product; (iii) installation, repair or alteration of the Product by persons not authorized by Spacelabs (Customer's biomedical engineering staff will be deemed authorized personnel to repair a Product upon successful completion of Spacelabs technical training for the Product); (iv) defects caused by a product, software or part not originating from Spacelabs; (v) failure of Customer to maintain the Product according to the Product documentation or, for Software, use of the Software in violation of the licensing terms stated herein or failure to install the most recent no cost, mandatory software update within 120 days after release by Spacelabs; or (vi) natural causes, power fluctuation, or power failure. Spacelabs' obligation and liability under any warranty is limited to repair or replacement of a defective Product. If the Product is not repaired or replaced in a reasonable time, Spacelabs shall credit Customer a pro rata portion of the defective Product's purchase price based on a seven (7) year amortization upon return of the defective Product to Spacelabs. Customer must obtain a return of goods authorization including packaging and shipping instructions from Spacelabs before Equipment or Software Products can be returned for warranty Service or adjustment.

6.7.2. **If the Product is a medical device, Spacelabs' warranty is voided by use of accessories, spare parts, or consumables that are not qualified by Spacelabs as compatible with the Product, as the Product is in such instance no longer compliant with regulatory requirements.**

6.8. Disclaimer of Warranties. SPACELABS AND ITS SUPPLIERS MAKE NO OTHER WARRANTY OF ANY KIND WHATEVER, EXPRESS OR IMPLIED, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY SPACELABS AND ITS SUPPLIERS.

6.9. Customer Responsibilities during Warranty Coverage.

6.9.1. Customer shall ensure appropriate personnel participate in Spacelabs biomedical and clinical education training and provide training to peers, as appropriate. Prior to implementation of the Spacelabs Products, Customer shall have developed and implemented a process to handle first call response within their biomedical, nursing and information technology teams.

6.9.2. Customer shall make appropriate resources available to facilitate resolution of any issue that may arise during the warranty period.

6.9.3. If Customer cannot resolve an issue with reasonable and good faith efforts, Customer shall promptly telephone the Spacelabs Technical Support team regarding such issue, then work cooperatively with the Technical Support team to troubleshoot the issue and facilitate resolution. If field Service is needed, Customer shall provide Spacelabs field service engineers with appropriate contact information and reasonable support in its resolution of the issue.

6.9.4. Customer shall provide Spacelabs with advance notification of any planned system changes that may impact the Spacelabs Software.

6.9.5. Customer is responsible for the support of all non-Spacelabs equipment used in conjunction with the Spacelabs Products, including but not limited to non-Spacelabs computer hardware, operating systems and network cabling, routers, and switches.

6.9.6. Customer is responsible for removing PHI (as defined below) prior to return of a Product to Spacelabs unless the Product cannot be operated to complete such removal.

6.10. Description of Warranty Coverage.

6.10.1. Telephone Support. Spacelabs shall provide reasonable telephone support in the operation, planned maintenance and corrective maintenance of Products covered by this Agreement. Spacelabs does not warrant that telephone support alone will be sufficient to resolve Product issues.

6.10.2. Remote Diagnostics Support. Spacelabs shall, subject to all necessary software, hardware and phone lines being installed at Customer's site, provide reasonable remote access support in the corrective maintenance of the Products. Spacelabs does not warrant that such support alone will be sufficient to resolve Product issues.

6.10.3. Corrective Maintenance Coverage. Customer may choose one of the following two types of corrective maintenance coverage for Equipment and Software; save that for anesthesia machine Equipment, only Corrective Maintenance Onsite Coverage applies. Product provided for Service or returned to Spacelabs must be free of biological hazard materials.

6.10.3.1. Corrective Maintenance Onsite Coverage. If Product issues cannot be resolved telephonically through good faith efforts of the parties, Spacelabs shall, upon Customer's request and between 8:30 am and 5:00 p.m. Customer's local time Monday through Friday (holidays excluded), provide any travel, accommodation, labor and Spare Parts required to complete, at Customer's site, required corrective maintenance. Customer agrees to promptly notify Spacelabs in writing or by phone of any Product failure which may require corrective maintenance.

6.10.3.2. Corrective Maintenance -- Return to Depot CM Labor Coverage. If Product issues cannot be resolved telephonically through good faith efforts of the parties, Spacelabs shall, upon Customer's request and between 8:30 am and 5:00 p.m. P.S.T. Monday through Friday (holidays excluded), provide at Spacelabs' site any labor and Spare Parts needed to complete required corrective maintenance. Customer agrees to promptly notify Spacelabs in writing or by phone of any Product failure which may require corrective maintenance and secure an RMA number to facilitate the Product's return. Customer shall be responsible for all freight and insurance charges in shipping the Products to Spacelabs; Spacelabs shall pay all return shipment costs. Risk of loss shall pass to Spacelabs upon receipt of the Product.

6.10.4. Equipment Service Loaners. If available from Spacelabs' stock of loaner equipment, Spacelabs will upon Customer request provide a loaner Equipment Product for Customer use during warranty repair.

6.11. Subsequent Agreed Coverage. After the expiration of the warranty set forth above, Customer will receive the amount of Depot Repair coverage identified in the Customer Quotation (if any) on Spacelabs' standard terms for same. Such additional coverage shall be provided for any Spacelabs Product that is not a Spare Part or on Spacelabs supplies and accessories Price List. Depot Repair coverage shall be provided as described above under Corrective Maintenance -- Return to Depot CM Labor Coverage. Telephone support and remote diagnostic support will also be provided.

7. Product Installation and Training. Spacelabs shall provide installation and training Service in accordance with and to the extent of Spacelabs' then current installation and training policies. Customer shall ensure that all users authorized by Customer to use the Spacelabs Products have completed requisite training to safely install, operate and/or use the Spacelabs Products.

8. Return of Products and Restocking Charges. Return of Equipment or Software Products must be approved in writing by Spacelabs prior to return and must take place within 12 months of shipment. Products which Spacelabs agrees may be returned for Customer convenience will be charged a restocking fee of 20% if returned within the first six months after shipment, and 40% for the seventh through twelfth month after shipment.

9. Demonstration and Evaluation Products. If Spacelabs provides Customer with demonstration or evaluation Equipment or Software ("Loaned Materials"), the rights and obligations of the parties in connection with the Loaned Materials will be governed by these Terms of Sale, save that: (i) Spacelabs and its suppliers shall retain ownership of the Loaned Materials; (ii) the license for any Software included with the Loaned Materials is non-exclusive, non-transferable, and limited to the term of Customer's use of the Loaned Materials; (iii) Customer shall return the Loaned Materials to Spacelabs upon the earlier of Spacelabs' request or 90 days after delivery to Customer; and (iv) Customer shall bear the risk of loss or damage to the Loaned Materials while in Customer's possession. Such Loaned Materials will be used only for purposes of patient care.

10. Product Samples. If Spacelabs provides Customer with supplies and accessories Product samples, Customer agrees to use such Product samples only for purposes of patient care, and to ensure the samples are used within 90 days after delivery to Customer.

11. Installation and Implementation Service Specific Terms.

11.1. Customer will make available to Spacelabs in a timely manner any information, data or documents in Customer's possession which Spacelabs may require to perform the installation and implementation Service (the "Project"). Spacelabs will be entitled to rely upon the accuracy and completeness of such information, data or documents.

11.2. Customer will designate and make available to Spacelabs on a regular basis a representative who is fully familiar with the Project and who is authorized to act on Customer's behalf in connection with the Project, to approve changes to the Project, and to inspect the Project.

11.3. Customer will provide Spacelabs with access to the Project site and prevent interference with Spacelabs' Project Service by Customer employees, visitors, trade unions, patients, and other contractors.

11.4. Should Spacelabs or Customer propose a change in the nature or scope of the Project, Spacelabs will submit to the Customer a written description of the work involved in the proposed change and the cost thereof. Should Customer direct Spacelabs to proceed with the change, Spacelabs will prepare a written change order describing the change and the adjustment in the Project Price required by such change ("Change Order"). No change will be effective unless and until it is embodied in a writing signed by the parties.

11.5. Customer represents and warrants that no asbestos or other hazardous materials (as defined in the Occupational Health and Safety Act of 1970 and regulations promulgated thereunder) are located within or adjacent to Spacelabs' Project work site, except as may have been disclosed to Spacelabs in writing prior to the execution of this Agreement. In the event that such hazardous materials are found on or adjacent to the Project work site during the course of Spacelabs' Service, Spacelabs will immediately suspend all Service and notify the Customer orally, with confirmation in writing. Removal of all such hazardous materials will be the sole responsibility of the Customer. Spacelabs may, at its option, treat the presence of such hazardous materials as grounds for terminating this Agreement or suspending the Project until Customer certifies in writing to Spacelabs and Spacelabs confirms that all such hazardous materials have been removed. Spacelabs will notify Customer in writing within 10 working days after its initial notice of work stoppage if it elects to terminate or suspend the Project Service.

11.6. Spacelabs will not be liable for any claims or damages arising from or related to: (i) pre-existing site conditions at, or construction or design of any Customer facility; (ii) information, data, or documents provided by Customer for use by Spacelabs in connection with Service; or (iii) work of third parties not under contract with Spacelabs.

11.7. The term "Substantial Completion" means the date when the Project or a designated portion thereof is sufficiently complete for Customer's use. Spacelabs will use reasonable best efforts to achieve "Substantial Completion" of the Project by the estimated completion date as agreed by the parties in writing. Customer will promptly advise Spacelabs in writing of any defects in material or workmanship which are discoverable with reasonable diligence during the Project Service. Spacelabs will notify the Customer when the Project has reached Substantial Completion, whereupon the parties will promptly inspect the Project together and identify any defects, deficiencies or Service remaining ("Punch List"). Upon the correction or completion of Punch List items, the Project will be promptly re-inspected.

11.8. The price for the Project Service is stated in the Customer Quotation for the Project. Such price, except as otherwise stated in such Customer Quotation, includes all applicable insurance, permits, freight, taxes, and miscellaneous expenses necessary to perform the Project Service, save that any utility assessments or connection charges, taxes or fees, licenses or permits relating to the operation of the Customer facility are to be paid by Customer. The Price may be adjusted for changes or additional work agreed to by the parties in writing. Should Customer direct or approve Project Service outside of normal working hours, costs incurred will be at the Customer's expense.

11.9. In the event the Project is terminated for any reason, Customer will pay Spacelabs for the Service performed to the termination date, as well as the costs of materials for the Project that are not cancelable.

12. Product Service Specific Terms.

12.1. Service is in addition to, and not a substitute for, routine Product maintenance. It is Customer's responsibility to follow the routine maintenance instructions provided by Spacelabs in the Product operations manual and accompanying labels and/or inserts for each Product, as failure to comply may result (as determined by Spacelabs in its reasonable discretion) in increased charges for Service, loss of Service coverage, and/or loss of warranty coverage for such Product. Customer must ensure that Product made available for Service is free of biological hazard materials. Customer is responsible for removing PHI prior to return of Product to Spacelabs unless the Product cannot be operated to complete such removal. Spacelabs will have no obligation to perform Product Service or accept returned Products unless these conditions have been satisfied.

12.2. Customer must ensure that Product is available for Service at the agreed time and place. Spacelabs reserves the right

to invoice Customer for Service if the Product is not available.

12.3. Service Support Agreements. Products will be included in a Spacelabs Service support agreement only after Spacelabs has determined that the Product is in good operating condition and eligible for coverage hereunder. If Spacelabs determines that preliminary Product Service or initial repairs are required, Spacelabs shall advise Customer of same and separately invoice Customer for such preliminary Service or initial repairs at Spacelabs' then current list prices/rates for time and materials. The support Service agreement term for a Product is the period shown in the Customer Quotation; provided, however, that Spacelabs shall not be obligated to provide Service until it receives advance payment for the billable period set forth in the Customer Quotation. Either party may terminate a support Service agreement in the event the other party is in default of any of that party's obligations as regards Service and such default remains uncured 30 days after receipt of notice of such default. Spacelabs may terminate a support Service agreement upon written notice in the event of an assignment by Customer for the benefit of its creditors, Customer's insolvency, or Customer or filing of a petition for bankruptcy. Customer may terminate a support Service agreement for convenience, with or without cause, by provision of thirty days written notice to Spacelabs.

12.4. Limitation on Product Service. Spacelabs shall not be obligated to provide any Product Service or Spare Parts requested to upgrade the Product from the applicable specification at the time of purchase, or for cosmetic reasons, or made necessary in whole or in part by improper use, abuse, neglect, negligence, accident, catastrophe, acts of God or any malfunction resulting from faulty maintenance, improper repair, damage and/or alteration by anyone other than Spacelabs.

13. Miscellaneous.

13.1. Proprietary Rights. “Intellectual Property Rights” means patent, copyright, trademark, trade secret and any other intellectual property rights. Spacelabs and its suppliers retain all rights, title and interest in and to the Intellectual Property Rights in the Products and any updates, upgrades, or derivative works thereof. Customer does not acquire any Intellectual Property Rights in the Products. Spacelabs' design, drawings, tracings, reproductions and specifications will remain Spacelabs' property.

13.2. Confidentiality. Each party agrees to keep the other party’s business, technical and proprietary information, including Product pricing, confidential. Each party shall use such information only in connection with this Agreement and the provision of Products by Spacelabs to Customer and shall not disclose such information except as required by law. Each party shall limit disclosure of such confidential information only to those of its employees and contractors who have a need to know the information and are bound by confidentiality obligations as regards the information that are similar to those stated herein. Upon request by a party, the other party will return the party’s confidential information.

13.3. Liability. Neither party shall be liable to the other for any incidental, indirect, special or consequential damages in connection with this Agreement or in connection with the Products. Customer shall at all times maintain the necessary backup and security for any and all data and application software used with the Equipment and Software and shall be responsible for any loss of any such data or application software.

13.4. Export Controls. Customer acknowledges that export and re-export of the Products is subject to compliance with the Export Administration Act, the regulations of the U.S. Department of Commerce and other export controls of the United States of America as amended from time to time, and the Export Control Act 2002, the Export Control Order 2008, EU Regulation 428/2009 and the Customs and Excise Management Act 1979 and other export controls for the United Kingdom as amended from time to time (the “Export Laws”). Customer shall not export or re-export the Products, technical data, or documentation associated with the Products (including but not limited to processes, data, and reports derived from the use of the Products) to any country or person to which export or re-export of such items is prohibited by the Export Laws. Spacelabs shall have the right to delay shipments or terminate the Agreement, in whole or in part, and without liability, should Spacelabs not obtain in a timely way all required export licenses and approvals necessary to export the Products.

13.5. Security. Customer is responsible for selecting and implementing necessary security measures in order to protect login and authentication credentials as well as the confidentiality, integrity and availability of Customer’s networks, systems and data. Customer is responsible for the prevention of security breaches (malware, spyware, trojans, viruses etc.).

13.6. Medical Device Products. Certain Spacelabs Products may be classified as medical devices. The Customer shall have the following additional obligations in conjunction with operation and use of Spacelabs medical devices:

13.6.1. If Customer receives or otherwise becomes aware of information that reasonably suggests that a Spacelabs medical device has been or might be involved in an adverse event or safety-related incident, as defined by applicable laws and regulations from time to time, the Customer shall forward such

information to Spacelabs without unreasonable delay. Customer shall use best efforts to assist Spacelabs with the investigation of any such adverse events or incidents.

13.6.2. If Spacelabs notifies Customer that a field safety corrective action or product recall is required for a Spacelabs medical device, then Customer shall expediently confirm receipt of field safety notices or product recall notices, and inform all affected users as instructed by Spacelabs. Customer shall also assist Spacelabs in the execution of the field safety corrective action or product recall, including following up with each affected user that required action has been implemented.

13.7. Compliance with Laws. Spacelabs will comply with all federal and state laws, ordinances, regulations and codes applicable to the Products and Spacelabs' performance under this Agreement. Spacelabs and Customer agree to fully comply with the Health Insurance Portability and Accountability Act of 1996 and its associated regulations including 45 C.F.R. §§ 160 and 164, Standards for Privacy of Individually Identifiable Health Information, Final Rule (the "Final Privacy Rule"), and 45 C.F.R. §§ 160, 162 and 164, Health Insurance Reform: Security Standards, Final Rule (the "Final Security Rule"), collectively referred to as ("HIPAA"), as they may be applicable to Spacelabs and Customer. Spacelabs shall use patient protected health information ("PHI") only in connection with Service performed under this Agreement or as otherwise authorized by HIPAA or Customer. Customer will use the Products in strict accordance with all applicable local, state and federal laws, regulations and guidelines, including without limitation all Indications for Use, Contraindications, Warnings, Precautions, and Descriptions accompanying the Products. Customer will use prudence and reasonable care in the use, handling, storage, transportation, disposition, and containment of the Products.

13.8. Governing Law; Jurisdiction. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington, USA, without reference to its laws relating to conflicts of law. Any legal action arising out of or relating to the sale of Products shall be brought only in the state or federal courts located in King County, Washington, and the parties irrevocably consent to the jurisdiction and venue of such courts.

13.9. Delays. Spacelabs will not be liable for any delay or default caused by events beyond its reasonable control, including by way of example any acts of God; acts of third parties; Customer's (or any of Customer's employees, agents, or representatives) actions or omissions; fires, floods, and other similar natural causes; sabotage; vandalism; labor disputes; strikes; lockouts; lack of storage, labor, supplies, fuel, or power; delays in receiving any permits or licenses; delays caused by any laws, regulations, ordinances, or any government action or inaction; or delays caused by contractors and subcontractors. The time for performance of Spacelabs' obligations hereunder will be extended for a commercially reasonable period of time in the event of any delay or default for such causes.

13.10. Access to Records. If and to the extent required by Section 1395x(v)(1)(I) of Title 42 of the United States Code, until the expiration of four years after the termination of the Agreement, Spacelabs shall make available, upon written request by the Secretary of the Department of Health and Human Services, or upon request by the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of the books, documents and records as are necessary to certify the nature and extent of the costs of the Service provided by Spacelabs to Customer. Spacelabs further agrees that in the event it carries out any of its duties for Customer through a subcontract with a related organization with a value or cost of $10,000.00 or more over a 12 month period, such subcontract shall contain a provision requiring the related organization to make available until the expiration of four years after the furnishing of such Service pursuant to such subcontract upon written request to the Secretary of the United States Department of Health and Human Services, or upon request to the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of such subcontract and such books, documents and records of such organization as are necessary to verify the nature and extent of such costs.

13.11. Invalidity; Waiver. The invalidity or unenforceability of any provision hereof will not affect any other provision, and all terms and conditions will be construed in all respects as if any such invalid or unenforceable provision(s) were omitted. The failure of either party to require the performance of any obligation will not affect its right to require such performance at any time thereafter. The waiver of any remedy with respect to any default will not be taken as a waiver of any remedy for any succeeding default.

13.12. Notice. All notices required hereunder must be delivered in writing by personal delivery or delivery by professional courier. Such a notice, consent or approval will be effective upon receipt.

13.13. Relationship of the Parties. The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created hereby. There are no third party beneficiaries to the Agreement.

13.14. Assignment. Customer may not, without Spacelabs' prior written consent, assign, delegate, pledge or otherwise transfer the Agreement, or any of its rights or obligations under the Agreement, to any party, whether voluntarily or by operation of law, including by way of sale of assets, merger or consolidation.

13.15. Entire Agreement. This Agreement constitutes the complete and exclusive statement of the agreement between Spacelabs and Customer in connection with the parties' business relationship related to the subject matter hereof, and all previous representations, discussions, and writings are merged in, and superseded the Agreement.