

CAIRE MEDICAL JAPAN CO., LTD.
Terms & Conditions of Sale

1. General. The terms and conditions contained herein, together with any additional or different terms contained in the proposal provided by CAIRE Medical Japan Co., Ltd. ("Seller"), if any, submitted to Purchaser (which proposal shall control over these terms and conditions to the extent it contains any conflicting terms and conditions) constitute the entire agreement between the parties with respect to the subject sale (the "Agreement") and supersedes all prior communications and agreements. Acceptance by Seller of Purchaser's order and Purchaser's acceptance of Seller's proposal is expressly limited to and conditioned upon Purchaser's acceptance of these terms and conditions, which may not be changed or waived except in a writing signed by both parties. Any additional, inconsistent or different terms and conditions contained in Purchaser's order or any other documents supplied by Purchaser are hereby expressly rejected. Unless the context otherwise requires, the term "**Equipment**" as used herein includes all goods, equipment, parts, and accessories sold to Purchaser by Seller. Unless the context otherwise indicates, the term "**Services**" as used herein shall mean labor, supervision, repair and project engineering services provided by Seller. The term "**Purchaser**" shall mean only the party issuing the order to Seller for Equipment and/or Services, regardless of the end user of the Equipment and/or Services.

1. 总则. 此处的条款及条件, 和 CAIRE 生物医学日本有限公司 (以下简称“卖方”) 报价单的其他另外的或不同的条款 (如果有) 一并提交给买方 (该报价单应当在存在冲突的条款及条件存在冲突时起支配作用), 构成协议之间就销售问题的全部协议, 取代此前所有的沟通和协议. 卖方接受这些条款和条件, 除非双方采取书面签署外, 不可更改或放弃. 买方订购, 或其他买方提供文件中出现的, 除非上下附加的, 不一致的, 不“设各”一条, 均不适用. 除非的, 上下附加的, 不一致的, 不“设各”一条, 均不适用. 除非的, 所有货物、设备、零部件和附件. 除非另有规定, “服务”一词指卖方提供的劳动、监管和项目工程服务. 术语“买方”仅指向卖方发出设备和/或服务订单的一方, 而不论设备和/或服务的最终用户如何.

2. Payment Terms. Unless a different payment schedule is agreed to in writing by Seller, payments for domestic sales are due net thirty (30) days and shall be made by wire transfer to the bank account designated by Seller at the expense of Purchaser. Late payments are subject to a 1.5% late charge per month, calculated per diem, and Seller's rights set forth in Section 11. Payments for export sales to be made in accordance with the payment schedule separately specified by Seller. If required by Seller, Purchaser will submit collateral satisfactory to Seller. Purchaser agrees to furnish Seller with requested credit information. Purchaser's credit limit is set at Seller's sole discretion and may be modified at any time based upon Purchaser's credit risk as determined by Seller. In the event that Purchaser's credit risk increases, Seller is entitled to modify the payment terms and require alternate payment methods.

2. 付款条件. 除非卖方书面同意不同的付款时间表, 否则国内销售款项应于三十 (30) 天内到期, 并由卖方承担费用电汇至卖方指定的银行账户. 逾期付款须按日计算每月 1.5% 的滞纳金, 以及第 11 条规定的卖方权利. 根据卖方单独规定的付款时间表支付出口销售款项. 如果卖方要求, 买方将提交卖方满意的抵押品. 买方同意向卖方提供所要求的信用信息. 买方的信用限额由卖方自行决定, 并可以根据卖方确定的买方的信用风险随时修改. 如果买方的信用风险增加, 卖方有权修改付款条件, 并要求替代的付款方式.

3. Taxes. Federal, state, local, or value added, sales taxes or any other similar taxes imposed under any legal system measured on the price of Equipment and Services by any taxing authority are not included in the price and will be charged in additional to the price if Seller is responsible for such tax to the competent taxing authority.

三. 税. 联邦、州、地方或增值税、销售税或任何税务机关根据任何法律制度对设备和服务价格征收的任何其他类似税不包括在价格中, 如果卖方负责向主管税务机关缴纳这些税, 则将附加在价格中.

4. Time Limit. All quotations are valid for a period of thirty calendar days.

4. 时间限制. 所有报价有效期为 30 日历天.

5. Acceptance. Unless otherwise provided hereunder or in Limited Warranty Statement (hereinafter defined), acceptance of Equipment occurs at the point of delivery and acceptance of any Services provided hereunder occurs upon completion of the Services. Unless otherwise provided hereunder or in Limited Warranty Statement, after acceptance occurs, Purchaser may not assert any demand, claim or legal remedies regarding the accepted Equipment or Services against Seller.

5. 接受. 除非另有规定或有限保修声明 (以下定义), 设备验收发生在交货点, 任何服务验收发生在服务完成后. 除非本合同另有规定或有限保修声明另有规定, 在验收发生后, 买方不得就已接受的设备或服务对卖方提出任何要求、索赔或法律补救措施.

6. Limited Warranty, Exclusive Remedies and Indemnity.

Seller agrees to and shall provide to Purchaser a limited warranty and exclusive remedies statement relating to the Equipment sold hereunder ("Limited Warranty Statement"). Purchaser acknowledges receipt of the Limited Warranty Statement (which is available from Seller upon request) and agrees to its terms. Seller warrants its Services against defects in workmanship for a period of ninety (90) days from the date of their completion. *THE REMEDIES AND WARRANTIES STATED IN THE LIMITED WARRANTY STATEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES GRANTED UNDER APPLICABLE LAW, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF QUALITY, PERFORMANCE AND DESIGNS, WRITTEN, ORAL OR IMPLIED, AND ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE ARE HEREBY EXPRESSLY DISCLAIMED BY SELLER AND ALL EQUIPMENT MANUFACTURERS.* Purchaser agrees to defend, indemnify and hold Seller harmless from any third party claims arising out of the use, sale, lease or rental of the Equipment or Services and from all expenses, losses and other damages resulting from Purchaser's breach of any of the terms and conditions herein.

6. 有限质保, 排他救济和赔偿. 卖方同意并向买方提供有关以下所售设备的有限保修和排他救济声明 (“有限保修声明”). 买方确认收到限额保修单 (卖方可根据要求提供) 并同意其条款. 卖方保证其服务在完成之日起九十 (90) 天内不发生工艺缺陷. 有限保证书中所陈述的补救和保证是任何根据适用法律授予的其他保证和补救措施中所能获得的唯一的救济, 包括但不限于质量、性能和设计的保证、书面、口头或默示的保证, 以及对特定用途的适销性和适宜性的任何暗示保证或从贸易的交易或使用产生的所有其他保证都由卖方和所有设备制造商在此明确否认. 买方同意就因使用、销售、租赁或租用设备或服务以及由于买方违反本合同任何条款和条件而引起的一切费用、损失和其他损害而引起的任何第三方索赔向卖方进行无害的辩护、赔偿和保护.

7. Termination. No termination of this Agreement by Purchaser for default shall be effective unless, within fifteen (15) days after receipt by Seller of Purchaser's written notice specifying such default, Seller shall have failed to initiate and pursue correction of such specified default.

7. 终止. 买方不可基于不履行义务解除合同, 除非卖方在收到买方指出此种不履行的书面通知后 15 天内, 未能启动并纠正此种被指明的不履行。

8. Excusable Delays. The schedule for shipment of Equipment or performance of Services will be modified for delays resulting from causes beyond Seller's reasonable control, including but not limited to, strikes, restrictions of the United States Government or other governments having jurisdiction, delays in transportation, or inability to obtain necessary labor, materials or manufacturing facilities.

8. 可容许的延误. 由于卖方无法合理控制的原因造成的延误, 将修改设备装运或服务履行的时间表. 包括但不限于罢工、美国政府或其他有管辖权的政府的限制、运输的延误或无法获得必要的劳动力、材料或制造设备。

9. Delivery. All deliveries of Equipment are Ex Works Seller's facility with responsibilities as defined in INCOTERMS 2010 unless otherwise specified on Seller's order acknowledgement. If Seller agrees in writing to prepay transportation and insurance charges on Purchaser's behalf, Purchaser agrees to pay Seller the same upon receipt of an invoice from Seller. Claims for shortages in delivery shall be deemed waived unless made in a writing received by Seller within ten (10) days after delivery. Delivery dates quoted are based on Seller's best estimate of a realistic time when delivery will be made, and are subject to change due to prior sales. Delivery dates will be confirmed on Seller's acceptance of any resulting order. Seller may make early delivery or partial delivery and invoice Purchaser accordingly.

9. 交货. 除非在卖方的订单确认上另有规定, 所有设备的交货都是《国际贸易术语汇编》2010 中规定的由卖方工厂交货. 如果卖方书面同意代表买方预付运输费和保险费, 买方同意在收到卖方发票后同样向卖方支付. 除非卖方在交货后十 (10) 天内收到书面通知, 否则对交货不足的索赔应视为放弃. 所报价格的交货日期是根据卖方对实际交货时间的最佳估计, 并因先前的销售情况而有变动. 交货日期将在卖方接受订单后确认. 卖方可以提前交货或部分交货, 并据此向买方开具发票。

10. Laws, Codes and Standards. Except as expressly stated herein, the price and schedule included herein are based on laws, codes, and standards in effect as of the date of the subject sale. If such laws, codes, and standards change and increase or decrease the cost of performing the work or impact the schedule, then Seller will advise Purchaser of the same. Purchaser and Seller shall promptly negotiate in good faith and mutually agree upon any modification to the order resulting from any such change.

10. 法律、法规和标准. 除本合同明确规定外, 本合同所包括的价格和时间表均以自标的物销售之日生效的法律、法规和标准为依据. 如果这些法律、法规和标准改变, 增加或减少执行工作的成本或影响进度, 那么卖方将通知买方. 买方和卖方应立即本着诚意进行谈判, 并相互同意基于上述变化对订单的任何修改。

11. Title and Risk of Loss or Damage. Despite any agreement with respect to delivery terms or prepayment of transportation or insurance charges, the risk of loss or damage for Equipment shall pass to Purchaser upon the earlier of payment in full or completion of delivery, and delivery shall be deemed to be completed upon delivery to a private or common carrier or upon moving into storage, whichever occurs first, at the point of delivery. Purchaser shall insure the Equipment upon delivery and ensure that Seller's interest in the Equipment is noted on the insurance policy. Seller shall retain title to the Equipment until all invoices for such Equipment have been paid in full. In the event of late payment, Seller reserves the right to enter onto Purchaser's premises to repossess the Equipment until Purchaser has paid for such Equipment in full.

11. 所有权和损失或损害风险. 尽管就交货条件或运输或保险费的预付达成了任何协议, 设备灭失或损坏的风险应在全额支付相关费用或完成交货时转移给买方, 以先到为准. 在交货地点, 交货到私人或公共承运人时或在搬入仓库时视为已完成, 以先到为准. 买方应为设备投保直到送达, 并确保在保险单上注明卖方对设备的利益. 卖方应保留对该设备的所有权, 直到该设备的所有发票全部付清为止. 如果延迟付款, 卖方保留进入买方处所收回设备的权利, 直到买方已全额支付该设备款项。

12. Installation and Field Service. Installation of Equipment furnished hereunder shall be made by Purchaser, unless otherwise agreed to in a writing signed by Seller's duly authorized representative. Field service will be provided on a per diem basis upon written authorization by Purchaser and at Seller's rates in effect when such services are provided.

12. 安装和现场服务. 除非在卖方正式授权的代表签署的书面协议中另有约定, 否则买方应安装本合同项下提供的设备. 现场服务将根据买方的书面授权, 按日提供, 并在提供此类服务时按卖方的有效费率提供。

13. Cancellation. Cancellation of any order must be by written notice to Seller and will be subject to Seller's cancellation charges, including without limitation all costs incurred through the date of cancellation, cost to process such cancellation, plus a reasonable profit of Seller.

13. 取消. 取消任何订单必须以书面通知卖方, 并须支付卖方的取消费用, 包括但不限于到取消日期为止发生的所有费用、处理取消的费用以及卖方的合理利润。

14. Intellectual Property; Confidentiality. Purchaser shall defend, indemnify and hold Seller harmless from all expenses, losses and other damages resulting from any actual or alleged infringement of patents, copyrights or trademarks arising from Seller's compliance with Purchaser's designs, specifications or instructions. Unless otherwise agreed to in a writing signed by Seller's duly authorized representative, all right, title and interest in any inventions, developments, improvements or modifications of the Equipment and Services made by Seller or Purchaser shall exclusively remain with Seller. Any design, manufacturing drawings or other information submitted to Purchaser shall remain the exclusive property of Seller. Purchaser shall not, without Seller's prior written consent, copy nor disclose such information to any person. The information, drawings, plans, standards, and specifications furnished by Seller were developed at Seller's expense and may not, without Seller's prior written consent, be used nor disclosed by Purchaser for any purpose other than to install, own, operate, and maintain the subject Equipment. If the Equipment is held to infringe a United States patent in effect as of the date of this Agreement, then Seller may at its option procure for Purchaser the right to use the Equipment; modify or replace it with non-infringing Equipment; refund the purchase price allocable to the infringing Equipment, or settle or otherwise terminate said actions on behalf of Purchaser. The foregoing is Seller's entire liability on patent infringements. Purchaser shall keep confidential and shall not without the prior written consent of Seller disclose to any third party any technical or commercial information which Purchaser has acquired from Seller as a result of discussion, negotiations or other communications relating to the Equipment or this order.

14. 知识产权; 保密. 买方应就因卖方遵守买方的设计、规格或指示而造成的任何实际或据称侵犯专利、版权或商标的任何费用、损失和其他损害为卖方辩护、赔偿和保持其无害. 除非卖方正式授权的代表在书面上另有约定, 卖方或买方对设备和服务的任何发明、开发、改进或修改的所有权利、所有权和利益应完全归卖方所有. 提交给买方的任何设计、制造图纸或其他信息应为卖方的专有财产. 未经卖方事先书面同意, 买方不得向任何人复制或披露此类信息. 卖方提供的信息、图纸、计划、标准和规格由卖方自行制定, 未经卖方事先书面同意, 买方不得用于或披露除安装、拥有、操作和维护主体设备以外的任何目的. 如果该设备被认定侵犯了自本协议签订之日起生效的美国专利, 则卖方可自行选择为买方争取使用该设备的权利; 用非侵权设备修改或替换该设备; 将可分配的购买价格退还给侵权设备, 或者解决或以其他方式代表买方终止该诉讼. 以上是卖方对专利侵权的全部责任. 买方应保密, 未经卖方事先书面同意, 不得向任何第三方透露买方由于与设备或本订单有关的讨论、谈判或其他通信而从卖方获得的任何技术或商业信息。

15. Assignment. This Agreement or any rights, duties or obligations under this Agreement may not be transferred or assigned by operation of law or otherwise by Purchaser, without the prior express written consent of Seller. Any transfer or assignment of this Agreement or any rights, duties or obligations under this Agreement without Seller's consent shall be void. Seller may transfer or assign, by operation of law or otherwise,

this Agreement or any rights, duties or obligations under this Agreement without the consent of Purchaser.

15. 转让. 未经卖方事先明确书面同意, 买方不得通过法律或其他方式转让或转移本协议或本协议项下的任何权利、责任或义务. 未经卖方同意, 本协议的任何转让或本协议项下的任何权利、义务无效. 无需买方同意, 卖方可通过法律或其他方式转让本协议或本协议项下的任何权利、义务.

16. **Export Sales.** In no event shall Seller be required to export or deliver any technical information, data or Equipment if such export or delivery is then prohibited or restricted by any law or regulation of the U.S. Government or any other applicable governmental agency of any country having jurisdiction, and in such cases, Seller's obligations under such order shall be terminated at Seller's option, and Seller shall be entitled to reasonable termination charges for the termination of the order. All orders hereunder are subject to applicable governmental laws, regulations and rules of the Government of the United States, including departments, agencies and sub-divisions thereof, and of the country in which the Equipment sold hereunder will be installed, used, or performed. Purchaser agrees not to transfer any Equipment, technical information or data of Seller without full compliance with applicable U.S. laws and those of any other applicable governmental agency of any country having jurisdiction, and shall cause the end user to comply with such laws. Purchaser warrants and represents that it is in full compliance with all applicable laws. Specifically, Purchaser shall not transfer, export or re-export any Equipment or components thereof supplied by Seller to a prohibited person, to a prohibited country, or for a prohibited use under the U.S. export laws and those of any other applicable governmental agency of any country having jurisdiction.

16. 出口销售. 在任何情况下, 如果美国政府或任何其他具有管辖权的国家的适用法律或规定禁止或限制出口或交付任何技术信息、数据或设备, 则不得要求卖方出口或交付任何技术信息、数据或设备. 在此种情形下, 卖方有权选择终止订单, 并且卖方有权要求合理终止费用. 本合同项下的所有订单均受美国政府, 包括其部门、机构和分部, 以及安装使用或执行本合同项下所售设备的国家的适用的政府法律、法规和规则的约束. 买方同意在不完全符合适用的美国法律和任何国家任何其他适用的政府机构的法律的情况下, 不转让卖方的任何设备、技术信息或数据, 并使最终用户遵守这些法律. 买方保证并不表示它完全符合所有适用的法律. 具体而言, 买方保证并不将卖方提供的任何设备或部件转让、出口或再出口到被禁止的人、被禁止的国家、或用于根据美国出口法或具有管辖权的任何国家的任何其他适用的政府机构的禁止使用的用途.

17. **Limitation of Liability.** TO THE FULLEST EXTENT ALLOWED UNDER APPLICABLE LAW, IN NO EVENT SHALL SELLER, ITS AFFILIATES, SUPPLIERS AND SUBCONTRACTORS BE LIABLE TO PURCHASER OR TO ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF USE, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, DOWNTIME COSTS, DELAYS NOR FOR ANY PENALTIES WHETHER ANY SUCH CLAIM FOR THE SAME IS BASED ON CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. SELLER'S LIABILITY FOR ANY SUCH CLAIMS WHETHER IN CONTRACT, WARRANTY, NEGLIGENCE, TORT, STRICT LIABILITY, OR OTHERWISE OR FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF, OR FROM ANY DESIGN, SALE, INSTALLATION, OPERATION OR USE OF THE EQUIPMENT OR PERFORMANCE OF ANY SERVICES COVERED BY THIS AGREEMENT, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE PAID TO SELLER BY PURCHASER FOR THE SPECIFIC EQUIPMENT OR PART THEREOF OR FOR THE SERVICES GIVING RISE TO THE CLAIM.

17. 有限责任. 在适用法律允许的最大限度内, 卖方、其联营公司、供应商和分包商在任何情况下都不应对买方或任何第三方承担任何特殊、间接、附带或间接损害赔偿赔偿责任, 包括但不限于利润损失、使用损失、资本成本、替代设备

成本、停机时间等. 无论是基于合同、担保、侵权、过失、严格责任还是其他方面的索赔, 延误或处罚都是如此. 卖方对任何此类索赔的责任, 不论是在合同、保证、疏忽、侵权、严格责任或其他方面, 还是由于与本协议有关的任何损失或损害, 或由于设备的任何设计、销售、安装、操作或使用或履行本协议所涵盖的任何服务而造成的任何损失或损害, 在任何情况下均不得超过买方为引起索赔的具体设备或部分或服务向卖方支付的购买价格.

18. **Governing Law.** This Agreement (including the Limited Warranty Statement) and any claim, controversy or dispute arising under or related to this Agreement, the relationship of the parties, and the interpretation and enforcement of the rights and duties of the parties will be governed exclusively by the laws of Japan, without regard to any conflicts of law principles. Purchaser agrees that any claim, controversy or dispute arising under or related to this Agreement shall be resolved at courts and any legal action or proceeding taken by Purchaser against Seller shall be brought in the Tokyo District Court having the exclusive jurisdiction as court of the first instance within one year of the date of the occurrence of the event giving rise to any such claim. The parties agree that the UN Convention on Contracts for the International Sale of Goods shall not apply.

18. 适用法律. 本协议 (包括有限保证声明) 以及根据本协议或与本协议有关的任何索赔、争端或争议、当事人关系、当事人权利和义务的解释和执行, 将完全由日本法律管辖, 而不考虑任何法律原则冲突. 买方同意, 根据本协议或与本协议有关的任何索赔、争端或争议应由法院解决, 买方对卖方采取的任何法律行动或诉讼应在任何引起上, 诉讼事宜发生之日起一年内提交东京地区法院, 该法院作为第一审法院具有专属管辖权. 双方同意《联合国国际货物销售合同公约》不适用.

19. **Headings.** The headings used throughout are for convenience only and shall be given no legal effect. Fax copies shall be given the full force and effect as an original.

19. 标题. 所有标题只作方便之用, 不具法律效力. 传真件应与原件具有同样法律效力.

20. **Entire Agreement; Severability; Third Parties.** These terms and conditions constitutes the complete and exclusive agreement between Seller and Purchaser and except for the Limited Warranty Statement, there are no agreements, understandings, restrictions, warranties, or representations between Seller and Purchaser other than those set forth herein or therein provided for in the Limited Warranty Statement. The express terms and conditions of this Agreement shall apply in place of all warranties, conditions, terms, representations, statements, undertakings and obligations whether expressed or implied by statute, common law, custom, usage or otherwise, all of which are excluded to the fullest extent permitted by law. In the event of any terms and conditions herein being overridden by any statutory provisions, the remaining terms and conditions shall still have effect and the overridden provision shall be revised to meet the original intention of such provision to the fullest extent permitted by law. No term or condition is intended for the benefit of any third party, and Seller and Purchaser do not intend any term or condition should be enforceable by a third party, including without limitation any end user of Equipment or Services. **References to any statutory provision, enactment, order, regulation or other similar instrument shall be construed as a reference to the statutory provision, enactment, order, regulation or instrument as amended, replaced, consolidated or re-enacted from time to time and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made under it.**

20. 整体协议; 可分割性; 第三方. 这些条款和条件构成了卖方和买方之间完全的和排他性的协议, 除了有限保修声明之外, 在卖方和买方之间没有协议、谅解、限制、保修或陈述, 除了本合同或优先保修声明中规定的那些. 本协议的明示条款和条件应适用于法规、普通法、习惯、惯例或其他规定或暗示的所有保证、条件、条款、陈述、声明、承诺和义务, 所有这些保证、条件、条款、陈述、承诺和义务在法律允许的最大范围内被排除在外. 如果本协议中的任何条款和条件被任何法律规定所推翻, 其余条款和条件仍然有效, 并应在法律允许的最大限度内修改被推翻的条款, 以符合该规定的初衷. 任何条款或条件都不是为了任何第三方的利益, 卖方和买方不打算任何条款或条件应由第三

强制执行，包括但不限于任何设备或服务的最终用户。关于法定条文、法令、命令、规章或其他类似文书，应解释为经不时修订、替换、合并或重新颁布的法定条文、法令、命令、规章或文书，并应包括任何命令、规章、实践守则、文书等和其它根据它制定的从属法规。

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