

## **AUDIO-SERVICE'S SALES TERMS AND CONDITIONS**

### **1. CONTRACT TERMS**

- a. These terms and conditions ("**Terms**") apply to the sale of all hearing instruments, accessories and other products (collectively "**Products**") and the supply of all services ("**Services**") by AS AUDIO-SERVICE GmbH ("**AS**") to a customer ("**Customer**"), unless Customer has entered into a separate written agreement with AS governing such sale. By ordering, accepting delivery or otherwise proceeding with any transaction with AS, Customer agrees to these Terms.

### **2. ORDERS AND PAYMENTS**

- a. Any order is subject to acceptance by AS. Any subsequent performance by AS of these Terms shall be subject to Sections 8.d and 9, as well as AS's ongoing credit review and approval process.
- b. Prices for Products and Services are quoted in regularly updated price lists and unless otherwise agreed in writing, orders placed by Customer will be priced in accordance with the prevailing price list in effect at the date of the order confirmation issued by AS AUDIO-SERVICE GmbH. AS may, at its sole discretion, change the prices set forth in its price list and add and remove Products and Services from the Price List at any time.
- c. For the avoidance of doubt, Customer shall set its own resale prices and terms and conditions governing the resale of Products and Services to its own customers.
- d. Customer shall not be entitled to any discounts, rebates or incentives in respect of Products and/or Services purchased from AS unless agreed by AS separately in writing.
- e. All consideration and other amounts payable or expressed to be payable under these Terms or any agreement incorporating these Terms are exclusive of any applicable value added tax, sales tax or other similar taxes ("**VAT or Similar Taxes**"). If VAT or Similar Taxes is chargeable, Customer shall pay these amounts additionally in accordance with the applicable rules and regulations. All payments shall be made without any deduction or withholding of taxes by the Customer. Where tax is required to be withheld in accordance with applicable laws, the sum payable by Customer shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, AS receives a net sum equal to the sum which would have received had no such deduction or withholding been made or required to be made.
- f. Customer will make full payment in the currency specified in AS's invoice without set-off and in immediately available funds in advance (where no credit has been granted) or no later than thirty (30) days from the date of the invoice (where credit has been approved according to AS's internal credit process), unless otherwise agreed to in writing by AS.
- g. If Customer's account is past due, AS reserves the right to apply any pre-payment made on any other order to any outstanding amounts owed. Interest at the rate of 1.5% per month (or the maximum permitted at law, whichever is lower) shall accrue from the due date until actual payment of any overdue amount, whether before or after judgment.
- h. AS shall have the right to change the manufacture and/or design of ordered and confirmed Products or Services without notice if, in the judgment of AS, such change does not substantially alter the general stated function of the Products or Services.

### **3. DELIVERY**

- a. Delivery schedules are approximate only and are based on conditions at the time of acceptance of orders by AS.

- b. AS shall make reasonable efforts to meet any quoted or acknowledged delivery date(s) but shall not be liable for any failure to meet such date(s). Partial shipments may be made without prior notice.
- c. Unless otherwise agreed in writing by AS, all Products are supplied ex-works. All freight charges and other transportation, packing and insurance costs, license fees, customs duties, and other similar charges shall be Customer's sole responsibility, unless otherwise agreed separately in writing by AS.
- d. Risk and title in Products shall pass at the time of delivery.

#### **4. WARRANTY**

- a. **Standard Warranty:** AS warrants to Customer that the Products manufactured by AS and sold hereunder shall be free from defects in material or workmanship under normal use and service for the warranty period specified in the applicable price list or as otherwise agreed in writing by AS. The warranty period shall commence from the date of shipment to Customer (subject to a grace period of 90 days).
- b. AS makes no warranty for any Products manufactured by persons other than AS or its Affiliates, and Customer's sole warranty for such Products, if any, is the original warranty which AS agrees to pass on to Customer to the extent legally permissible and permitted by the original manufacturer.
- c. **Extended Warranty:** For an additional fee, and subject to availability, the Customer may purchase an extension to the duration of AS's Standard Warranty in accordance with the prevailing AS guidelines.
- d. **Basic Warranty for Paid Repairs:** Where the Customer has returned an out-of-warranty Product for a paid-for repair, AS warrants that the repaired or replaced components will be free from defects in material or workmanship (fair wear and tear excepted) under normal use and service for the warranty period specified by AS at the time the Product is accepted for repair by AS. Such warranty period shall commence from the date of completion of the repair or (as the case maybe) delivery of the replaced Product(s).
- e. **Extended Warranty for Paid Repairs:** For an additional fee, and subject to availability, Customer may purchase an extension to the duration of the Basic Warranty for Paid Repairs in accordance with the prevailing AS guidelines.
- f. Any warranty provided by AS under these Terms is non-assignable and non-transferrable, unless Customer obtains AS's prior written consent.
- g. No warranty shall apply to any Products which: (a) have been damaged by fire, accident, misuse, abuse, negligence, improper application or alteration hereof or by any person's failure to operate the Products in accordance with AS's instructions or to maintain the recommended operating environment; (b) are defective due to unauthorized attempts to repair, maintain, service, add to or modify the Products or due to the attachment and/or use of non-AS supplied parts, equipment or software without AS's prior written approval; (c) have failed due to causes from within non-AS supplied equipment, parts or software; or (d) have experienced battery degradation as a result of ordinary charge/discharge cycles.
- h. AS's obligation under this warranty is limited to the repair or replacement, at AS's option, of defective Products or parts. Repair or replacement may be with products or parts that are new, used or refurbished. Repairs or replacements shall not interrupt, extend or prolong the term of the warranty. Customer shall pay AS its normal charges for service and parts for any inspection, repair or replacement that falls outside the warranty set forth herein.
- i. This warranty is made on the condition that immediate written notice of any non-compliance be given to AS and AS's inspection reveals that Customer's claim is covered under the terms of the warranty. Customer shall provide AS with full and free access to the Products as is reasonably necessary for AS to provide warranty service.
- j. Customer undertakes to fully inform each of its own customers and end users as to the terms of AS's warranty to the Customer, together with such other information as may be required by applicable law.

Customer shall be responsible for its warranties or other assurances given to its own customers or end users. Customer shall indemnify AS and its Affiliates against any loss or damage suffered or any costs incurred or to be incurred by AS or its Affiliates if Customer's own customers or end users make any claims against AS or its Affiliates.

- k. TO THE EXTENT PERMITTED BY APPLICABLE LAWS, AS MAKES NO WARRANTY OTHER THAN TO THE CUSTOMER WITH WHOM IT HAS A CONTRACTUAL RELATIONSHIP AND AS SET FORTH IN THIS SECTION 4 AND SUCH WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSES, AND AS SUCH CONSTITUTES THE ONLY WARRANTY MADE WITH RESPECT TO THE PRODUCTS AND SERVICES AND ANY DEFECT, DEFICIENCY OR NONCONFORMITY IN ANY PRODUCT, SERVICE OR OTHER ITEM FURNISHED UNDER THESE TERMS OR ANY AGREEMENT INCORPORATING THESE TERMS.

## 5. LIABILITY

- a. AS sole liability in connection with the Products and Services supplied by AS shall be as provided in Section 4. To the extent that limitation of liability is permitted by law, AS's total liability to Customer, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited per incident to the value of the Products or Services giving raise to the claim and in aggregate be limited to the lesser of (i) the value of the Products or Services sold to and paid for in full by Customer in the relevant AS fiscal year in which such liability was first incurred, or (ii) Euro 250,000 whichever is lower.
- b. Under no circumstances whatsoever shall AS be liable to Customer, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any loss of profit, loss of goodwill, loss of business, loss of business opportunity, loss of anticipated saving, loss or corruption of data or information, procurement of substitute goods and/or services, or any special, indirect or consequential damage suffered by Customer that arises under or in connection with these Terms or any agreement incorporating these Terms.
- c. The limitations set forth in Sections 5.a and 5.b will not apply to liability for death or personal injury caused by negligence, liability for fraud or any other liability which cannot be excluded under applicable law.

## 6. CONFIDENTIALITY AND DATA PRIVACY

- a. Each party shall use all reasonable care to protect the confidentiality of the information disclosed by the other party, but in any event no less than the degree of care it would use to protect its own confidential information, and shall only disclose the other party's confidential information to its employees and agents having a need to know the information disclosed or as may be required by applicable law.
- b. Notwithstanding the foregoing, AS may upon written request from any government or government agency, disclose the existence and details of these Terms and any agreement incorporating these Terms, including Customer's identity and details of Products and Services supplied. Further, AS may disclose the such information upon written request from any other third party if AS reasonably determines that the third party has a legitimate need for that information.
- c. Customer shall not provide AS with any personally identifiable information (including but not limited to the name, gender, age, passport number, identity card number, contact information and health information) (collectively "**Personal Data**"), unless such information is specifically requested by AS or required to be provided by applicable law. Customer represents and warrants that it shall comply with all applicable data protection laws and further represents and warrants that it has obtained and shall have obtained all consents and authorizations necessary by virtue of applicable law or otherwise of all data subjects for the Customer to disclose their personal data to AS (including for the purposes set out above). Upon AS's request, Customer shall promptly provide a copy of any data subject's consent for disclosure to AS. Where requested by AS, Customer shall enter into a data processing agreement on AS's standard terms setting out its obligations in relation to such Personal Data and to enable AS to process the

Personal Data. Customer shall indemnify AS and its Affiliates against any loss or damage suffered or any costs incurred by AS or its Affiliates because of a breach by Customer of this Section 6.

## **7. INTELLECTUAL PROPERTY**

- a. Any software is licensed, not sold, to Customer. It is protected by intellectual property laws and treaties worldwide and contains trade secrets in which AS and its licensors reserve and retain all rights not expressly granted to Customer. No right, title or interest to any trademark, service mark, logo, or trade name of AS or its licensors is granted to Customer.
- b. Customer shall have a non-exclusive and non-transferable license to use such software solely in conjunction with the Products and Services delivered hereunder and only for the purpose(s) stated in the Product or Service description and in accordance with the Product or Service user guides made available by AS. Customer shall not modify, reproduce or copy any such software, or any portions thereof, without AS's prior written consent, except that the Customer may make one copy for backup purposes. Except to the extent that the parties may otherwise agree in writing, the Customer's license to use such software shall terminate upon: (a) discontinuance of use of the hardware delivered hereunder in which such software is initially installed; (b) discontinuance of payment of the applicable periodic license and maintenance fees, if any, or (c) breach of any of the above-stated license terms, whichever occurs first. All copies of the software with respect to which the license is terminated shall be returned to AS promptly after such termination.
- c. Subject to revocation by AS at any time, Customer may use the designation '*Signia*' and other trademarks registered on behalf of AS or its Affiliates (collectively, the "**AS Designations**") solely for advertising and distribution purposes according to the specifications and guidelines provided by AS to Customer from time to time. For the avoidance of doubt, Customer shall not use any of the AS Designations for any other purposes without the prior written consent of AS. Customer shall cease to use any respective AS Designations as of the termination of these Terms or any agreement incorporating these Terms or any other termination of use rights with respect to any AS Designations granted in connection with these Terms or any agreement incorporating these Terms. The provisions of this Section 7.c do not apply to the extent the use of AS Designations by Customer is permitted by mandatory law.

## **8. TERMINATION AND FORCE MAJEURE**

- a. Either party may terminate any agreement incorporating these Terms or its applicability with respect to one or more individual Products or Services without cause by giving the other party not less than three (3) months' prior written notice.
- b. Either party may terminate these Terms or any agreement incorporating these Terms with immediate effect by written notice upon the occurrence of one of the following events:
  - i. there exists an event as described in Section 8.d which continues for more than three (3) months;  
or
  - ii. the other party commits a material breach of any other term of these Terms or any agreement incorporating these Terms if such breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so, or
  - iii. the other party voluntarily files a petition in bankruptcy or a petition in bankruptcy is involuntarily filed against the other Party (which petition is not discharged within thirty (30) days after filing).
- c. AS may terminate these Terms or any agreement incorporating these Terms with immediate effect by written notice upon the occurrence of one of the following events:
  - i. Customer fails to pay any undisputed amount due under these Terms or any agreement incorporating these Terms on the due date for payment and remains in default not less than fourteen (14) days after being notified in writing to make such payment; or

- ii. Customer fails to achieve its agreed sales targets for two (2) consecutive quarters; or
  - iii. Customer breaches its obligations under Sections 6 or 7; or
  - iv. In the circumstances described in Section 9.i; or
  - v. Customer commits any breach of the Sales Partner Sublicense Agreement; or
  - vi. Customer acquires, directly or indirectly, an interest in a company competing with AS or otherwise enters into contracts with such company giving Customer a dominant influence over such company, or
  - vii. a company competing with AS acquires, directly or indirectly, an interest in Customer.
- d. AS shall not be liable for any loss or damage for any delay in delivery or any other failure by AS to perform these Terms or any agreement incorporating these Terms due to any of the following: any of the events set out in Section 9.i having occurred (as determined by AS in its sole discretion); any acts of government or public authority; compliance with any governmental or public authority rules or regulations; acts of God or of the public; war; terrorism; civil commotion or riots; civil war; blockades; embargoes; sanctions; calamities; epidemics; pandemics; floods; fires; earthquakes; explosions; storms; strikes; lockouts; labour disputes or unavailability of labour, raw materials, component parts, power, utilities, or supplies; non-performance by suppliers or subcontractors; cyber-attacks, or any other causes beyond the reasonable control of AS. Should such a delay or failure to perform occur, AS may at its sole discretion elect to reasonably extend delivery or production schedules or cancel the order in whole or part without liability other than to return any pre-payment, provided that Customer's account is current.

## **9. COMPLIANCE WITH LAWS**

- a. Customer represents and warrants that it and any party acting on its behalf (including but not limited to its employees, agents and business partners) shall strictly comply with all applicable laws and regulations, including without limitation any laws and regulations relating to taxation, anti-corruption, anti-bribery, antitrust, anti-money laundering or any other criminal laws, rules or regulations. Customer shall forthwith, and in any event within ten (10) calendar days, notify AS in writing upon becoming aware that any of the foregoing representations and warranties are no longer true and correct, or upon being requested directly or indirectly by a third party or any AS officer or employee to violate any law or regulation in connection with these Terms or any agreement incorporating these Terms.
- b. Customer further represents and warrants that:
  - i. neither it nor its affiliates, subsidiaries, directors, managers, officers, employees, agents, or representatives is a person or entity, or is owned or controlled by a person or entity, that is (a) a Specially Designated National or Blocked Person or which otherwise appears on any list maintained by the US Department of the Treasury's Office of Foreign Assets Control (including, without limitation, the List of Specially Designated Nationals and Blocked Persons or any successor list(s)), by the US Commerce Department, or by the US Department of State; or (b) identified on the European Union's Consolidated List of Sanctions, the UK HM Treasury's Consolidated List of Financial Sanctions Targets, the UK Export Control Organisation's Iran List; or (c) identified on Singapore's Lists of Designated Individuals and Entities, or (d) otherwise designated as subject to financial sanctions or prohibited or restricted from receiving US, EU, Singapore, or UK services or any other equivalent local provisions; and
  - ii. it shall exercise the rights granted to it under these Terms or any agreement incorporating these Terms in accordance with such terms and any and all restrictions and guidelines imposed by AS; and
  - iii. it will comply and will ensure that its affiliates, subsidiaries, directors, managers, officers, employees, agents, and representatives comply with all applicable laws, including US, EU, Singapore and UK



sanctions laws and regulations, in performing hereunder. Customer agrees to notify AS immediately in writing of any change in ownership or control that might violate or otherwise impact the representations made in this Section, and

- iv. it understands that any products, software, or technology, including technical data, it receives from AS may be subject to export controls. Customer covenants and agrees to comply with applicable export controls.
- c. Customer agrees to comply with the US Foreign Corrupt Practices Act ("**FCPA**"), the UK Bribery Act, and the laws of the country in which any transactions are made or services are provided under these Terms or any agreement incorporating these Terms. Without limiting the generality of the foregoing, Customer represents and warrants and covenants and agrees as follows:
  - i. neither Customer nor, to its best of its knowledge, any person or entity working on Customer's behalf in connection with these Terms or any agreement incorporating these Terms is (or will be at any time during the applicable term): (a) an officer, agent or employee of any government or any agency, instrumentality or department thereof (collectively "**Government**"); or (b) a person acting in an official capacity or any other manner on behalf of any such Government; or (c) an official of any political party, holder of any political office, or candidate for any political office; or (d) an entity directly or indirectly owned or controlled by any such Government, or an officer, agent or employee of such entity; or (e) an officer or employee of a public international organization (each of the foregoing (a) to (e) is an "**Official**"); and
  - ii. in connection with the performance of these Terms or any agreement incorporating these Terms, Customer shall not, directly or indirectly, offer, pay, promise to pay, or authorize the payment of any money or offer, promise to give, or authorize the giving of anything of value to any Official or any person while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to any such Official or any such person for the purpose of (a) influencing any action or decision of such Official or any such person including, without limitation, a decision to fail to perform his or its official functions; or (b) inducing such Official to use his or her influence with any Government to affect or influence any act or decision of such Government, or (c) securing an improper advantage, in each case in order to assist in obtaining or retaining business for or with, or directing business to, any person, including obtaining preferential regulatory approvals; and
  - iii. in connection with the performance of these Terms or any agreement incorporating these Terms, Customer shall not, directly or indirectly, offer, pay, promise to pay, or authorize the payment of any money or offer, promise to give, or authorize the giving of anything of value to any other person or entity if such payment would violate the FCPA, the UK Bribery Act, and/or laws of the country in which the transaction is made and/or services are provided under these Terms or any agreement incorporating these Terms.
- d. Customer agrees to keep, and make available in case of audit referenced in Section 9.f below, books and records that accurately describe in detail all products and services received, and payments made, by Customer, as well as evidence of fulfilment of its obligations under this Section 9 (including but not limited to having carried out compliance trainings commensurate with Customer's business).
- e. Customer shall provide all such information, documents, confirmations or assurances to AS as it may request from time to time to its satisfaction to confirm that the Customer complies and continues to comply with all applicable laws and regulations.
- f. Without limiting the generality of Section 9.e above, AS or a third party retained by AS shall be entitled to conduct an audit of all Products and Services received by Customer under these Terms or any agreement incorporating these Terms if (i) AS has obtained information which AS determines to indicated that Customer may have breached any of its obligations, representations or warranties under this Section 9, or (ii) the results of AS's internal assessments indicate a potential corruption risk. Customer agrees to fully cooperate in any audit which may be conducted.

- g. Unless otherwise agreed to in writing by AS, all payments by Customer shall be paid by electronic bank transfer. AS will not accept payments from Customer in cash or bearer instruments, or from an account in a country other than (i) the country of incorporation of Customer, or (ii) the country in which Customer has its principal or substantial place of business. Customer warrants and represents that no payments will be made, directly or indirectly, through any trust, intermediate entity or other third party.
- h. To the extent required by applicable law, Customer shall ensure that Products are only assembled using biocompatible materials in accordance with ISO 10993 and are fitted and sold by trained professionals maintaining all necessary licenses and certifications. Customer is further not allowed to use CE marking. AS may require Customer to provide evidence of its compliance with this Section 9h if AS becomes aware or has reason to suspect non-compliance by Customer.
- i. AS shall not be obliged to perform any obligations under these Terms, and/or may terminate these Terms, or any agreement incorporating these Terms, with immediate effect and without any liability by giving written notice to Customer if AS, in its sole discretion, is of the view that: (i) Customer is in breach of any of the warranties, certifications, or representations provided in this Section 9; or (ii) the performance of these Terms or any agreement incorporating these Terms, in whole or in part, or any transactions governed by these Terms or any agreement incorporating these Terms, would cause AS to breach any term, warranty, condition, or other provision of any contract or undertaking to which the AS and/or any of its Affiliates is a party, which exists at the date of these Terms or any agreement incorporating these Terms; or (iii) any transactions contemplated under these Terms or any agreement incorporating these Terms would be in breach of, or otherwise targeted by any laws or regulations, including sanctions and export control laws; or (iv) any transactions contemplated under these Terms or any agreement incorporating these Terms could potentially constitute a sanctionable activity under US secondary sanctions, or give rise to retaliatory measures by the US Government or any other government or regulatory authority.

## 10. REGULATORY

- a. Customer hereby warrants and represents that (i) Customer is not excluded or suspended from any public health care purchasing or reimbursement programs, and that (ii) all laws, rules, regulations or any other provision issued by the competent authority in the territory(-ies) in which Customer will sell Products ("**Territory**"), including for importing and sale of medical devices, has been and shall at all times be duly complied with by Customer.
- b. Without prejudice to the generality of Section 10.a above, Customer warrants and represents that:
  - i. Where Customer is incorporated in or doing business in any European Union member state, Customer is aware of the European Union Regulation 2017/745 on medical device regulations as may be amended, supplemented or replaced from time to time (the "**MDR**") and the duties imposed upon Customer thereunder;
  - ii. Customer shall install and maintain a complaint register, ensuring monitoring to competent authority and to AS;
  - iii. Customer shall regularly check labelling of all Products which are deemed medical devices for conformity with applicable regulations and the conformity assessment.
  - iv. Customer shall not remove, change or obscure any labelling on any Product.
  - v. To the extent that Customer is subject to the MDR, Customer shall maintain a quality management system to control as a minimum the following items:
    - 1. translation of all information supplied with the Product into local language; and
    - 2. packaging and storage, and

3. reporting of information regarding complaints to AS.
- c. Customer shall maintain control of records by ensuring the efficient storing of:
    - i. documentation for traceability, together with invoices, of the sold Products to the end-users; and
    - ii. customer complaints or adverse market surveillance information; and
    - iii. records and documentation of recalls; and
    - iv. samples and sales literature; and
    - v. product registrations in the Territory with applicable government agencies or health authorities; and
    - vi. any registration, approval or filing of these Terms.
  - d. The records referenced in Section 10.c shall be maintained for a period of ten (10) years after the Product went out of production and the last unit was sold by Customer (whichever is later) and shall include the date of sale, serial number, name and address of the buyer and – if relevant - shipping package consignee with product reference and lot numbers.
  - e. Customer must be able to fully trace any Product within two (2) working days to the end-user.
  - f. Customer shall forward all Product complaints to AS as soon as these are identified. Such obligation includes any oral, electronic or written complaints of any deficiencies related to labeling, quality, durability, reliability, safety, effectiveness or performance of any Product.
  - g. Customer is obliged to follow AS's vigilance procedures for the medical devices, and shall inform AS immediately of any oral, electronic or written complaints or reports, either from competent authorities or from end-users or others, on Incidents or Near Incidents involving the Products so that AS may be able to react appropriately, including notifying national health authorities.
  - h. Customer acknowledges that AS may issue a recall or a Field Safety Corrective Action if a recall of a Product is needed or if Advisory Notice is needed. Customer shall comply with all instructions set out in any Field Safety Notice or Advisory Notice. Customer shall bear its own costs in case of any product recall.
  - i. For the purposes of this Section 10:

**“Advisory Notice”** shall mean notices of Products that need to be corrected in order to be safe and perform as intended, as well as nonconforming Products that cannot be corrected and have to be removed from the market.

**“Field Safety Corrective Action”** shall mean any action taken by AS to reduce a risk of death or serious deterioration in the state of health associated with the use of a Product that is already placed on the market. Such actions may be notified via a Field Safety Notice.

**“Field Safety Notice”** shall mean a communication to customers and/or users sent out by AS or its representative in relation to a Field Safety Corrective Action.

**“Incident or Near Incident”** shall mean any malfunction or deterioration in the characteristics and/or performance of a Product, as well as any inadequacy in the labeling or the instructions for use which, directly or indirectly, might lead to or might have led to the death of a patient, or user or of other persons or to a serious deterioration in their state of health.
  - j. To the extent that Customer outsources any services (including but not limited to installation and/or servicing) to third parties, Customer shall procure that such third party complies with the obligations of



this Section 10. Customer shall notify AS of any such outsourcing activities prior to commencement of the same and shall be subject to AS's prior written consent.

- k. For market approval and introduction, Customer is responsible for local product approval, registration and / or licensing. AS supports Customer in the approval process where Customer is responsible to market the device. AS is responsible to provide Customer with the necessary data and complete all activities with the respect to the country specific approval process in a timely manner. Customer shall only start selling the device to customers in case that all legal, regulatory, licensing and technical requirements, all requirements of AS and all applicable local requirements have been met.
- l. Upon AS's request, Customer shall cooperate with and assist AS in obtaining all data required by the applicable regulatory authorities and obtaining approvals for the commercialization of the Products in the Territory, including any certificates or equivalent approvals or permissions. Customer shall promptly provide AS with copies of all such approvals and permissions.
- m. In case any registrations of Products, approvals or permissions are made in Customer's name, Customer shall immediately assign and transfer any such registrations, approvals and permissions relating to AS or the Products in the Territory to AS or its nominee at no cost to AS upon termination of these Terms or upon AS's written request. Customer shall not import or sell any Products in the Territory without the required registrations, approvals or permissions.

Customer is therefore responsible for the compliance with applicable local country specific legal and regulatory requirements (standards and laws). Customer informs AS Corporate Quality Management regarding applicable country specific regulatory requirements and any changes without undue delay. This ensures, that AS achieves and maintains the market access for their products.

- n. AS or its affiliates has the property right to all registrations of Products with authorities and approvals, permissions etc. from authorities. Customer is not authorised to act on AS's behalf in correspondence with any authorities unless a written, duly signed power of attorney is provided by AS to the Customer for this specific purpose.
- o. In order to ensure highest quality standards, Customer shall consider using genuine spare parts provided by the manufacturer for the contractual product.
- p. AS technical documentation (user guide, safety manual and data sheet) provides Customer with the master user documentation. Customer shall keep the content of this master user documentation in the local user documentation. Customer is responsible to integrate additional country specific regulations in the local user documentation. Customer is responsible to hand over the technical documentation together with the product to his customer.

## **11. MISCELLANEOUS**

- a. These Terms (together with any written agreement incorporating these Terms) set out the entire agreement between the parties with respect to the subject matter dealt with hereunder, and supersede all prior agreements, understandings, representations, undertakings or negotiations, whether written or oral, between the parties with respect to such subject matter. Order documentation issued by Customer will be deemed to incorporate and be subject to these Terms, except where the parties expressly agree in writing to variations thereto. The pre-printed terms or general terms and conditions on any purchase order, order documentation form, contractual document or other similar correspondence originating from Customer are hereby excluded.
- b. Nothing in these Terms or any agreement incorporating these Terms shall be deemed to create a relationship of employer and employee, partnership, joint venture, or principal and agent between the Customer and AS. The Customer shall not be entitled to any commission, nor shall the Customer be entitled to make any representations or warranties on behalf of AS or act in any way which may cause AS to incur any liabilities or undertake any obligations without the prior written consent of AS.

- c. Customer may not assign any rights or obligations under these Terms or any agreement incorporating these Terms without AS's prior written consent, and any attempt to do so shall be void.
- d. In the event any provision of these Terms or any agreement incorporating these Terms is held by a court of competent jurisdiction to be unenforceable for any reason, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions hereof will be unaffected and remain in full force and effect.
- e. Other than AS's Affiliates, a person who is not a party to these Terms (or any agreement incorporating these Terms) shall have no right to enforce or enjoy any of these Terms or the agreement incorporating these Terms.
- f. For the purposes of these Terms, "**Affiliate**" shall mean, as to any entity, any other entity that directly or indirectly controls, is controlled by or is under common control with such entity.
- g. No failure and/or delay in exercising, on the part of any party, any right under these Terms or any agreement incorporating these Terms will operate as a waiver thereof, nor will any single or partial exercise of any right preclude the further exercise of any other right.

## 12. GOVERNING LAW AND ARBITRATION

- a. These Terms, and any agreement incorporating these Terms, are governed by and shall be construed and interpreted in accordance with the laws of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 shall be excluded.
- b. AS and the Customer will use their best efforts to negotiate in good faith and settle any dispute that may arise out of or relate to these Terms or any agreement incorporating these Terms. If any such dispute cannot be settled amicably through ordinary negotiations between representatives of AS and the Customer, the dispute shall be referred to the management of each of them who will meet in good faith to try and resolve the dispute.
- c. All negotiations connected with the dispute will be conducted in complete confidence and the AS and the Customer undertake not to divulge details of such negotiations except to their professional advisers who will also be subject to such confidentiality obligations and such negotiations shall be without prejudice to the rights of AS and the Customer in any future proceedings.
- d. In the event any such dispute is unresolved after thirty (30) days of the notice by either party to commence such negotiations referred to above, such disputes shall be resolved as follows:
  - i. Where the total quantum in dispute is up to and including Euro 1,000,000 (or its equivalent in the contracted currency) (including all counterclaims), such dispute (including the existence, validity or termination of these Terms or any agreement incorporating these Terms) shall be referred to and finally resolved by the courts of Germany. AS and the Customer irrevocably submits to the non-exclusive jurisdiction of the courts of Germany. The Customer hereby irrevocably waives any objection which it may now or hereafter have to the venue of any proceeding arising out of or relating to these Terms or any agreement incorporating these Terms and hereby further irrevocably waives any claim that the venue so selected is not a convenient forum for any such proceeding; and
  - ii. Where the total quantum in dispute is more than Euro 1,000,000 (or its equivalent in the contracted currency) (including all counterclaims), such dispute (including the existence, validity or termination of these Terms or any agreement incorporating these Terms) shall be referred to and finally resolved by arbitration administered by the DIS, which rules are deemed to be incorporated by reference in this clause. The tribunal shall consist of one arbitrator to be appointed by DIS. The seat of arbitration shall be Germany. The language to be used in the arbitration proceedings shall be English.