

**KLARITY MEDICAL PRODUCTS, LLC (“Klarity”)
Terms of Sale**

SOLE AND EXCLUSIVE TERMS

The purchase and sale of all Goods regardless of manufacturer, whether initiated by quotation, purchase order, electronic means, telephone or any other method, will be made in accordance with, and subject only to these Terms of Sale (the “Agreement”).

ORDERS

• **Placing an Order**

- Toll-Free: 877-599-8905
- Direct Dial: 740-788-8107
- Fax: 740-788-8109
- Email: sales@klaritymedical.com

• **Confirmation/Conditional Acceptance**

Confirmation of any order by Klarity constitutes **CONDITIONAL ACCEPTANCE EXPRESSLY CONDITIONED ON CUSTOMER'S COMPLETE ACCEPTANCE OF, AND UNQUALIFIED ASSENT TO THIS AGREEMENT.**

• **Complete Acceptance and Unqualified Assent**

Customer's acceptance of, use of, or payment for any or all of the Products constitutes Customer's complete acceptance of and unqualified assent to the terms and conditions of the Agreement.

• **Entire Agreement**

- This Agreement constitutes the sole and entire agreement with respect to the purchase and sale of Products to you the purchaser (“you” or Customer”).
- Additional or different terms and conditions proposed by you in any manner, including on any website or purchase order used by customer, are objected to and expressly rejected by Klarity.

• **Prices**

- Prices are subject to change with at least ten (10) days prior written notice.
- Price quotes are valid for thirty (30) days.
- Prices are exclusive of sales, use or similar taxes, duties and charges. Customer is responsible for such amounts.

• **Payment Terms**

- Customers with approved credit: Net 30 days for domestic customers and Net 60 days for international customers.
- Remittance of deposit or full payment at time of order may be required for new or delinquent customers.

- Any undisputed amounts not paid to Klarity when due shall bear interest at the lesser rate of 18% per annum (1.5% per month) or the maximum annual rate allowed by law until paid in full.

• **Payment Methods**

- All invoices must be paid in U.S. Dollars.
- Check, Money Order, EFT, Visa, MasterCard, Discover and American Express.

DELIVERY

• **Estimated Date of Delivery**

- Klarity will use commercially reasonable efforts to ensure prompt shipment and delivery of all Products; however, dates indicated for delivery are provided by Klarity for informational purposes and are based on Klarity's best estimates only.
- Failure to deliver Products within such estimated dates will not subject Klarity to liability.

• **Shipping Terms**

- Klarity will select the method of shipment.
- F.O.B. point of origin point of origin for domestic customers.
- Ex Works for international customers.
- Freight is prepaid and added to the invoice.

• **Duty to Inspect upon Delivery**

- Customer shall open shipments immediately and inspect for damages, shortages or errors.
- If any Product is Nonconforming, customer shall hold the package and request an inspection and claim form.
- Customer shall report any claim of shortage or error to Klarity within five (5) business day of delivery.

RETURNS

• **Policy**

- Prior authorization is required for all Product returns.
- No Product may be returned if such Product is considered a special item order, if such Product has expired, if the seal or package integrity has been compromised, or if such Product has not been used, handled or stored in accordance with all applicable Product instructions and documentation.
- Klarity may inspect each Product before return is accepted.

- If accepted, Customer's account will be credited an amount to be determined by Klarity in its sole discretion.
- After sixty (60) days, all sales are final.
- **Authorization**
 - A Customer wishing to return any Product for any reason must first notify Klarity in writing and request authorization.
 - If approved, Klarity will issue a Return Authorization Form ("RA") with a unique RA number and shipping instructions.
 - A valid RA number must appear on all shipping documents and related correspondence or no credit will be issued.
 - Each RA is valid for sixty (60) days from date of issuance.
- **Returns due to Shipping Error**
 - Products shipped in error by Klarity may be returned for full credit if reported to Klarity within five (5) business days of receipt and returned to Klarity with a valid RA number and in original condition within forty-five (45) days of delivery, and Klarity will pay the applicable reasonable return freight cost.
- **Customer Based Returns**
 - Customer has thirty (30) days from date of delivery to request authorization to return Products for its own purpose.
 - Customer will receive partial credit if Product is returned at customer's sole expense with a valid RA number and in re-sellable condition within ninety (90) days of delivery.
 - Customer credit will be based on the original purchase price minus initial freight charges and minus a twenty percent (20%) restocking fee.

LIMITED WARRANTY & DISCLAIMER

- **Products Manufactured by Klarity**
Klarity warrants to you, as the original purchaser, that, when subjected to normal, proper and intended use and storage by qualified personnel, Products manufactured by Klarity will perform substantially in conformance with Klarity's published specifications and be free from defects in material and workmanship for a period of one (1) year from the date of shipment.
- **Products Not Manufactured by Klarity**
Products not manufactured by Klarity are warranted only by the original manufacturer and only if and to the extent set forth in the original manufacturer's warranty. Klarity will have no warranty liability with respect to Products manufactured or supplied by third parties, or

failure of any such manufacturer or supplier to perform under its warranty.

- **Excluded Products**
This limited warranty does **not** cover defects, failures, or damages to any Product due to external causes including, but not limited to, intentional acts, accidents, force majeure, improper storage, usage not in accordance with the most recent version of the applicable instructions, neglect, or device alteration.
- **Notice & Remedy**
 - Upon discovery of any alleged failure or defect, Customer shall immediately notify Klarity in writing and include the model number, date of purchase and description of the perceived defect.
 - If Klarity determines a Product is defective and covered by this limited warranty then Klarity, in its sole and absolute discretion, will either repair or replace the Product.
- **Disclaimer**
 - TO THE FULL EXTENT ALLOWED BY LAW, THE FOREGOING LIMITED WARRANTY AND REMEDY IS EXCLUSIVE AND EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, REPRESENTATIONS, TERMS OR CONDITIONS, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE.
 - KLARITY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE.
 - WHEN UNDER APPLICABLE LAW, IMPLIED WARRANTIES MAY NOT BE EXCLUDED IN THEIR ENTIRETY, SUCH WARRANTIES WILL BE LIMITED TO IN DURATION AND SCOPE TO THE TERMS REQUIRED BY THE APPLICABLE STATUTE OR REGULATION.
 - UNDER NO CIRCUMSTANCES SHALL KLARITY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, EXCEED IN THE AGGREGATE THE TOTAL OF THE AMOUNTS RECEIVED BY KLARITY FOR THE APPLICABLE PRODUCT PURSUANT TO THIS AGREEMENT IN THE SIX-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
 - CUSTOMER'S DAMAGES ARE SPECIFICALLY AND INTENTIONALLY LIMITED TO THE RIGHTS OF REPAIR OR REPLACEMENT.

COMPLIANCE

• *Applicable Laws*

Klarity and Customer intend that each and every transaction related to the purchase and sale of any Product is made in accordance with, and in full compliance with all applicable laws, regulations and ordinances. Customer will ensure that its access to and use of the Products complies with all applicable laws. Customer will maintain all the licenses and authorizations that it needs to carry or use the Products and comply with the Agreement. Customer will comply with all export and import laws of all countries involved in the sale of Products under this Agreement, and all responsibility for shipments of Products requiring any government import clearance. Customer will ensure that it does not directly or indirectly provide any kickback or other benefit or consideration in violation of the Anti-Kickback Statute (42, U.S.C. §1320a-7b(b)) (the "AKS") or other applicable requirement.

• *Discounts*

To the extent required by the AKS or other requirements, Customer will fully and accurately report all discounts, rebates, or other price reductions relating to the purchase of Products in full compliance with the requirements. If requested, Klarity will provide accurate and complete information to Customer on the purchase price of the Products, including any discounts and rebates, so that Customer may fulfill applicable obligations.

It is not the intent of either Customer or Klarity that any payments or other amounts made pursuant to this Agreement be in return for the referral of ongoing business, if any, or in return for the purchasing, leasing, or ordering of any goods or services. Customer represents that all payments made pursuant to this Agreement are consistent with what the parties reasonably believe to be a fair market value for the goods or services provided.

PROPRIETARY RIGHTS

• *Ownership & Interest*

- Between Klarity and Customer, Klarity or its third-party suppliers or licensors shall exclusively own all ideas, inventions, technology, patents, patent applications, copyrights, trademarks, trade names, trade secrets, know-how and other intellectual property and proprietary rights and interests used or embodied in any Product, including any drawings, designs, specifications, documentation, and software furnished by Klarity relating to the Product.

- Customer will not acquire any right, title, or interest therein or any right to use the same.

• *Prohibited Acts*

- Customer shall not remove, alter, or obscure any copyright, trademark, trade name, logo, government restricted rights, or other proprietary or confidentiality notices or legends from any Product, including any packaging, labels, documentation, or other materials provided by Klarity relating to the Product.
- Customer shall not, directly or indirectly, take, authorize or permit any action, or use any procedure or process in any jurisdiction, to assert, register, file, publish, confirm, perfect or claim any right in any intellectual property or proprietary rights of Klarity, its suppliers or licensors.
- Customer acquires no rights in or to the intellectual property of Klarity or its licensors.

• *Force Majeure.*

Neither Customer nor Klarity will be liable or responsible to the other, nor be deemed to have breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (excepting payment obligations hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's reasonable control, including, without limitation, the following force majeure events: (a) acts of God; (b) flood, fire, earthquake, epidemic, pandemic, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; and other events beyond the reasonable control of the impacted party.

• *Governing Law.*

All transactions relating to the purchase and sale of any Product will be governed by and construed in accordance with the laws of the State of Ohio, without regard to conflicts of laws principles and specifically excluding the provisions of the United Nations Convention on International Sale of Goods. Any claims, legal proceeding or litigation arising in connection with this Agreement or the sale or use of any Product will be brought solely in federal or state courts located in Columbus, Ohio, and each party irrevocably submits to the exclusive jurisdiction of such courts.