Natus Terms and Conditions of Sale of Goods and Services

1. General. For purposes of these Terms and Conditions of Sale of Goods and Services ("Agreement"), Natus means Natus Medical Incorporated and all of its wholly-owned subsidiaries, unless otherwise specified in a separate agreement with Customer or with Customer’s designee. Any Purchasing Organization, these Terms and Conditions of Sale of Goods and Services, the separate Natus Software License Agreement ("NSLA"), if applicable, any applicable Service Agreement and associated service contract and related schedules constitute the entire agreement between Natus and Customer. Any additional or different terms, including but not limited to those on Customer’s purchase order or other forms, are hereby rejected by Natus. Natus’s failure to object to any provision or to act upon any course of dealing or custom of trade with Customer shall not constitute a waiver of any such provision. Natus reserves the right to discontinue the sale and/or supply of any product or service. Natus reserves the right to perform any non-conforming services for no charge as long as Customer provides reasonably prompt written notice to Natus. The foregoing service remedy, together with any remedy provided in the applicable agreement, is the Customer’s sole and exclusive remedy in the event of breach of Natus’ sole and exclusive remedies (and Natus’ sole and exclusive liability) for warranty claims. These exclusive remedies shall not have failed of their essential purpose (as that term is used in the Uniform Commercial Code) as long as Natus remains willing to repair or replace defective warranted products or reperform any non-conforming services for no charge, as applicable, within a commercially reasonable time after being notified of Customer’s warranty claim.

2. Prices and Terms. Prices for goods and services purchased under this Agreement are in U.S. dollars, unless otherwise noted. Irrespective of any prices quoted by Natus or listed in Customer’s order, an order is accepted only at the prices shown on the face of this form. Prices quoted for the terms described on the face of this form are firm and not subject to re-determination. Prices do not include and Customer acknowledges and agrees that it shall be responsible for any other amount including without limitation fees for export, customs duties, tariffs, special packaging, transportation, insurance and all federal, state and local charges, sales, use, gross receipts, excise, value-added services, or any similar transaction or consumption taxes ("Taxes"). Any such amount, including taxes on the invoices, will be payable by Natus, if the amount is determined by, or measured by, the transaction between Natus and Customer will be paid by Customer in addition to the price specified herein. In the event that Natus is required to pay any amount in addition to the prices specified herein, the parties agree that Customer will reimburse Natus therefor or reimburse Natus for any interest or penalty that may be due by any taxing authority. If Customer is exempt from any such amount, Customer must provide Natus with a valid exemption certificate.

Each party is responsible for any personal property or real estate taxes on property that the party owns or leases, for franchise and privilege taxes on its business, and for taxes based on its net income or gross receipts.

3. Terms and Method of Payment. Payment is due to Natus upon delivery to Natus or within credit limits established by Natus, the invoiced amount shall be due and payable in full 30 days after the invoice date. Accounts outstanding for more than 30 days will be subject to a monthly service charge at the rate of 1.5% per month or the maximum amount permitted by applicable law, whichever is less. At Natus’s sole discretion, Natus may terminate a Customer’s open account credit at any time without advance notice to Customer whether for Customer’s failure to pay for any products or services, or as a result of delay in or failure to perform any other reason deemed good or sufficient by Natus, and in such event all subsequent shipments and services shall be paid for on receipt. For any products requiring final assembly or installation by Natus, if such assembly or installation is delayed by more than 30 days after delivery of the products for any reason for which Customer is responsible, Natus will bill Customer for and Customer will pay Natus any remaining payments due under this Agreement. If Customer has a good faith dispute regarding payment for a particular product or service, such dispute shall not entitle Customer to withhold payment for any other product or service purchased from Natus. Natus reserves the right to refuse to accept any returned goods or services, at Natus’s sole discretion.

4. Late Payment. Failure to make timely payment is a material breach of this Agreement, for which Natus may, at its option, exercise any and all remedies, including but not limited to, the acceleration of Natus’s entire indebtedness to Customer under this Agreement and the termination of this Agreement without further notice to Customer. Natus reserves the right to suspend performance of this Agreement until the outstanding balance is paid.

5. Title, Shipment, Delivery and Risk of Loss. For domestic deliveries, all deliveries are F.O.B. Origin. For international deliveries, all deliveries are Ex Works point of shipment (incoterms 2010) or as may otherwise be set forth in the applicable sales contract. For all deliveries, risk of loss and title to the goods ordered will pass to Customer upon delivery of the goods by Natus to the carrier. Natus shall arrange for and select the method and route of shipment. Unless otherwise specified, the goods will be shipped in standard commercial packaging. When special or export packaging is requested, or in the opinion of Natus, required under the circumstances, the costs of such packaging, if not set forth on the invoice, will be payable by Natus. The risk of loss, theft or damage of any goods shipped outside the United States, Canada, Mexico, and the Caribbean islands is that of the Customer. Natus reserves the right to arrange return shipment to Natus at Customer’s expense. The return authorization number must be clearly written on each box or return label. Product must be returned prior to use or installation in its original packaging. For customers outside the United States, please contact your local sales representative to obtain return authorization.

6. Acceptance and Returns. Product shall be deemed accepted upon delivery to the carrier unless it is shipped in error and Natus shall not accept return of any product unless the product is shipped in error. In such cases, the customer must contact Natus Customer Service at 1-800-247-4677 (US/Canada) or +1-408-741-3000 (International) to arrange return shipment to Natus at Natus’ expense. The return authorization number must be clearly written on each box or return label. Product must be returned prior to use or installation in its original packaging. For customers outside the United States, please contact your local sales representative to obtain return authorization.

7. Warranties. Product warranties (if applicable) for products purchased hereunder are subject to a limited product warranty that, if applicable, accompanies the goods and is available at www.natus.com and is incorporated into this Agreement by reference.

For Services provided under this Agreement, Natus warrants that such services will be performed by trained individuals in a professional, workman-like manner. Natus will promptly perform any non-conforming services for no charge as long as Customer provides reasonably prompt written notice to Natus. The foregoing service remedy, together with any remedy provided in the applicable agreement, is the Customer’s sole and exclusive remedy in the event of breach of Natus’ sole and exclusive remedies (and Natus’ sole and exclusive liability) for warranty claims. These exclusive remedies shall not have failed of their essential purpose (as that term is used in the Uniform Commercial Code) as long as Natus remains willing to repair or replace defective warranted products or reperform any non-conforming services for no charge, as applicable, within a commercially reasonable time after being notified of Customer’s warranty claim.

NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, SYSTEM INTEGRATION AND DATA ACCURACY, WILL APPLY.

Natus may use refurbished parts in new products as long as it uses the same quality control procedures and warranties as for new products. Any part for which Natus has supplied a replacement shall become Natus property.

8. Limitation of Liability. NOTWITHSTANDING THE FOREGOING, NATUS’ LIABILITY ARISING OUT OF OR RELATED TO (I) ANY GOODS PURCHASED UNDER THIS AGREEMENT, AND (II) SERVICES PROVIDED UNDER THIS AGREEMENT AND/OR THE SALE SHALL BE LIMITED TO REFUND OF THE PURCHASE PRICE OF SUCH GOODS OR SERVICES. IN NO EVENT SHALL NATUS BE LIABLE FOR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUE, COST OF PROCUREMENT OF SUBSTITUTE GOODS, OR ANY OTHER SPECIAL, INDIRECT, RELIANCE, INCIDENTAL OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND REGARDLESS OF WHETHER NATUS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND REGARDLESS OF WHETHER SUCH DAMAGES ARISE OUT OF THIRD-PARTY CLAIMS AGAINST CUSTOMER.

9. Software License. Natus, and any applicable subsidiary or affiliated company subject to this Agreement, grants to Customer a non-exclusive, non-transferable license to use for internal business purposes the third-party software and associated documentation provided hereunder by Natus to Customer, subject to the license scope and other restrictions set forth in this Agreement and the Natus Software License Agreement ("NSLA"). Customer may permit its employees, agents and independent contractors to use the software. Any third-party software provided by Natus together with the Natus software and will comply with all third-party software license terms. Without limiting the foregoing, Customer will not permit or allow any third-party to copy, modify, reverse engineer, rent, lease, loan, resell, modify or translate the software. Customer will only use the software for the purpose of testing, evaluation, or development. Customer may not use or distribute the software for any purpose other than the internal business purposes set forth in this Agreement. Customer may only use the software after (i) receipt of a product or service purchased from Natus, (ii) receipt of one copy of the software solely for backup purposes. Customer may use the software for its internal business purposes, at its expense, by notice in writing to cancel this contract without judicial intervention or declaration of default by Customer and without prejudice to any right or remedy that may have accrued or may accrue thereafter.

10. Bankruptcy. If Customer (i) becomes bankrupt or insolvent, (ii) compounds with its creditors, (iii) suffers a receiver or administrator to be appointed, (iv) makes an assignment for the benefit of its creditors, (v) suspends payment or becomes unable to pay its debts, (vi) applies for or consents to the appointment of a receiver or administrator, (vii) makes or consents to the appointment of a receiver or administrator of all or any part of its undertaking or assets, (viii) does any act in contemplation or furtherance of any of the matters mentioned in clauses (i) to (vii) above, or (ix) becomes insolvent, Natus may terminate any agreement with Customer and Customer shall forthwith pay to Natus all sums due or owing. The foregoing limitations shall apply regardless of whether Natus has been advised of the possibility of such damages, notwithstanding the failure of essential purpose of any limited remedy. Natus will not have any further liability to Customer under this Agreement or any other agreement between the parties, arising out of or related to damages, for any breach of warranty or termination of this Agreement or any license granted hereunder. Natus will not have any further liability for any breach of warranty or termination of this Agreement or any license granted hereunder under this Agreement, are Customer’s sole and exclusive remedies.

11. General Indemnification. Natus will defend, indemnify and hold harmless Customer from and against any third party claims brought against Customer for infringement of intellectual property rights arising from Customer’s use of the Natus manufactured equipment and/or Natus’ proprietary software purchased or licensed by Customer from Natus in accordance with their specifications and the license scope granted in this Agreement, if any, and any other agreements and documents that interfere with Customer’s use of the Natus manufactured equipment and/or Natus proprietary software, Natus shall give Customer notice of any such infringement of intellectual property rights (i) in writing; (ii) promptly notify Customer of any credits that may be due to Customer under any agreement may be applied first to any outstanding balance. If, after product delivery, Customer does not make any payments for the products within 45 days after such notice, Customer may, upon 10 days prior written notice to Customer, either (a) enter, upon Customer’s site and remove the products or (b) temporarily disable the products so that they are not operational.

A credit will reimburse Natus for reasonable costs (including costs for attorneys' fees) relating to collection of past due amounts. Any credits that may be due to Natus as a result of delay in or failure to perform any other product or service purchased from Natus. Natus may use refurbished parts in new products as long as it uses the same quality control procedures and warranties as for new products. Any part for which Natus has supplied a replacement shall become Natus property.
Natus or authorized by Natus in its documentation; (ii) the use of such Natus product in a manner or environment, or for any purpose, for which Natus did not design or license it; or (iii) any modification of such Natus product by any third party. Natus shall not be responsible for any compromise made by Customer or its agents without Natus’ consent. This indemnification obligation is expressly limited to the product purchased or licensed by Customer from Natus. In addition to any other limitations stated in this section, this section does not apply to Gold Seal Exchange Products.

12. Excusable Delays. If the performance of any obligation of Natus is prevented, restricted or interfered with by or on account of conditions beyond Natus’ reasonable control (including without limitation, strike, fire, riot, war, rebellion, insurrection, acts of God, failure or shortage of transportation, materials or facilities, or governmental regulations), Natus upon giving prompt notice shall be excused from such performance to the extent of such prevention, restriction or interference.

13. Governing Law; Disputes; Limitation of Liability. THESE TERMS AND CONDITIONS ARE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REFERENCE TO CONFLICT OF LAW PRINCIPLES. EACH PARTY EXPRESSLY WAIVES ALL RIGHTS TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE ARISING UNDER THIS AGREEMENT. Disputes (other than collection matters) arising under or relating to this Agreement will be submitted to the American Arbitration Association (“AAA”) office located closest to the largest metropolitan area of the state where the product is installed or the service is provided for binding arbitration in accordance with the AAA’s Commercial Arbitration Rules. The cost of the arbitration, including the fees and expenses of the arbitrator, will be shared equally, with each party paying its own attorneys’ fees. The arbitrator will have the authority to award damages only to the extent otherwise available under this Agreement. NATUS’ (AND ITS REPRESENTATIVES’) LIABILITY UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED: (A) FOR STAND-ALONE PRODUCT LICENSE: THE LICENSE FEE FOR THE PRODUCT THAT IS THE BASIS FOR THE CLAIM; OR (B) FOR SERVICE CONTRACTS, THE ANNUAL CONTRACT PRICE FOR THE SERVICE THAT IS THE BASIS FOR THE CLAIM.

The limitation of liability and exclusion of damages shall apply even if the limited remedies fail of their essential purpose.

None of the goods or underlying information or technology may be exported or re-exported, directly or indirectly, contrary to any law or export control.

14. Notification of Discount. Customer’s price paid to Natus for goods or services hereunder, or for Natus’ provision of goods or services to Customer, particularly pursuant to any promotional Program or other discount, may constitute a “discount or other reduction in price” for purposes of the federal anti-kickback statute, 42 USC §1320a-7b(b). To the extent required by the statute or by the discount safe harbor regulations at 42 CFR §1001.32(h)-i(h), a Customer hospital will be responsible for fully and accurately reporting in applicable cost reports and providing information upon request to Medicare, Medicaid and other federal health care programs on all discounts or other price reductions provided under this Agreement. Consistent with the discount safe harbors, Natus will inform a Customer hospital of the price reduction of any items purchased or any free items it provides to a hospital as part of any similar program and also will inform a hospital of the price discounts related to the purchase of Natus products or services.

15. Confidentiality. Each party will treat the terms of this Agreement and the other party’s written, proprietary business information as confidential if marked as confidential or proprietary. Customer will treat Natus (and Natus’ third party vendors’ software and technical information as confidential information whether or not marked as confidential and shall not use or disclose to any other third party, without Customer’s prior written approval, any such confidential information except as specifically permitted in this Agreement or as required by law (with reasonable prior notice to Natus). The receiving party shall have no obligations with respect to any information which (i) is or becomes within the public domain through no act of the receiving party in breach of this Agreement, (ii) was in the possession of the receiving party prior to its disclosure or transfer and the receiving party can so prove, (iii) is independently developed or developed by the receiving party can so prove, or (iv) is received from another source without any restriction on use or disclosure.

16. Termination. If either party materially breaches this Agreement and the other party seeks to terminate on the basis of that breach, such other party shall notify the breaching party in writing, setting out the breach, and the breaching party will have 60 days following such notice to remedy the breach. If the breaching party fails to remedy the breach during that period, the other party may, subject to the terms and conditions of this Agreement and by written notice terminating this Agreement, All orders are subject to (i) Natus’ on-going credit review and approval and (ii) Natus’ on-going determination that Customer and the proposed or related service Agreement comply with all applicable laws and regulations, including those relating to workplace safety, FDA matters, Federal Healthcare Program Anti-kickback compliance, export/import control and money laundering prevention. Customer acknowledges that the products and services may be subject to regulation by the FDA and other federal or state agencies. Customer shall not use or permit the products to be used in any manner that does not comply with applicable FDA or other regulations or for any non-medical, entertainment, or amusement purposes. Further, Customer represents that it is purchasing the products for its own use consistent with the terms of this Agreement and that it does not intend to re-export the products, to transfer or to otherwise dispose of or exchange the products with any country to which Natus delivers the products. If Natus determines in good faith at any time that there are legal or regulatory compliance and/or material credit issues with the order related or service agreement, Natus may terminate this Agreement (including warranty services hereunder) immediately upon written notice to Customer.

17. Record Retention. If Section 1861(v)(1)(l) of the Social Security Act applies to this Agreement, subsections (i) and (ii) of such Section are made a part hereof. If applicable, Natus will retain and make available, and insert the requisite clause in each applicable subcontract report and contract, all information, including, but not limited to, records, reports, correspondence, and other documents and records to the persons, upon the requests, and for the periods of time as required by such subsections.

18. Cost Reporting. Customer will (i) fully and accurately account for, and report in any applicable federal or otherwise fully disclose to government agencies or regulatory programs and third parties to which Customer has a duty to so report, reflect where and as appropriate to the applicable reimbursement methodology, and (ii) provide information upon request by federal or state agencies concerning, all services and other items, including any discounts, received from Natus under this Agreement in compliance with all applicable laws, including the federal Social Security Act and regulations relating to Medicare, Medicaid, and other federal and state health care programs.

19. Customer Responsibilities. In order for Natus to perform its obligations under this Agreement (including warranty obligations), Customer agrees to:

Provide and maintain a suitable, safe and hazard-free location and environment for the Natus products and services in material compliance with any written requirements provided by Natus, perform Natus recommended routine maintenance and operator adjustments, ensure that any non-Natus provided services is provided by the Natus products are used by, qualified personnel in accordance with applicable user documentation.

Provide Natus prompt and unencumbered access to the products, network cabling and communication equipment as necessary to perform services. This access includes providing and maintaining, to the extent required by the products (modem, internet line, internet access, broadband internet connection, or other secure remote access reasonably requested by Natus) to permit Natus to perform support services and meet service levels, including remote diagnostic, monitoring, and repair services. Natus has the right to make a scheduled service call where Customer does not provide such access and Natus therefore is required to schedule an additional service call.

Promptly place service calls in accordance with any reasonable Natus protocols provided to Customer and designate a Customer representative and alternate as Natus’ support contacts with the necessary skills to assist Natus in the diagnosis of service problems.

Establish and maintain security, virus protection, backup and disaster recovery plans for any data, images, software and equipment (Natus’ products do not include recovery of lost data or images) according to Natus technical requirements. This responsibility includes maintaining secure network and network security components, firewalls and security-related hardware or software, preventing unauthorized access to the products and preventing interception of communications between Natus’ service center and the product.

Ensure that personal data of Customer’s patients, customers and employees is not shared with Natus, whether during installation or service. In such cases where such personal data cannot be removed or hidden from Natus access to Natus to perform installation or service, Customer agrees to undertake all necessary steps in accordance with local law to seek prior approval from patient, customer and/or employees who may be impacted.

Obtain and maintain all licenses, permits, and other approvals necessary for installation, use, disposal, and recycling (each as applicable) of products provided under this Agreement. During the term of this Agreement, Customer will take all necessary and legally required precautions for the health and safety of Natus personnel who will perform any service at the Customer site, including, but not limited to, (i) instructing any Natus personnel who will be present at the Customer site to follow Customer’s policies and procedures relating to the protection of personal and confidential Natus written information identifying all known existing hazardous materials (including wastes) on or near the Customer site that could affect the Natus personnel, (ii) taking all necessary and legally required actions to properly store, remove and/or remediate any safety conditions and hazardous materials so that Natus may safely perform its services, and (iv) maintaining a workplace and operating environment in accordance with Federal, State and/or local requirements. Natus shall have no obligation to perform services until Customer has complied with each of the items identified above.

Unless expressly provided otherwise, Customer is separately responsible for: (a) the repair, replacement or removal of any disposables, consumables, supplies, accessories or collateral equipment; (b) the provision of or payment for any applicable installation, setup, training or staff cost; and (c) any service necessitated by (i) Customer’s or its representative’s designs, specifications, or instructions, (ii) anything external to the products, including any causes or events beyond Natus’ reasonable control, (iii) any products not manufactured by Natus and which are not compatible with the products, (iv) maintaining a secure connection to the product, or (v) Customer’s relocation, additions, or changes to the products, unless Natus has consented in writing to such relocations, additions or changes.

20. Installation. Natus installation services provided or identified in its Quotation will be performed in accordance with applicable Natus installation guides and project plans, if any, and otherwise subject to the following requirements. Customer agrees to review the applicable installation guides and project plans and perform its obligations set forth in those materials.

Customer will prepare the location for the installation consistent with Natus written specifications and applicable law. Customer will install necessary system cable and assemble any necessary equipment or hardware not provided by Natus, unless agreed otherwise in writing by the parties. For products that will be operated on or in connection with Customer supplied hardware or software, Customer is responsible for ensuring that its hardware and software conform with Natus minimum hardware and software requirements as made available to Customer. Natus will be responsible for enabling the connectivity and interoperability between its Customer supplied hardware or software other systems or devices and the Natus product, including, without limits, installing and installing any modifications, interfaces or upgrades consistent with Natus written specifications.

Customer is solely responsible for ensuring that Customer's network is adequate for the proper operation and performance of the products and that it otherwise meets Natus network configuration requirements (including requirements for preparation of Customer’s site, remote interconnections and Internet Protocol address assignments) provided by Natus to Customer.

21. Customer Training and Product Integration. Unless otherwise agreed to by the parties, training of Customer staff or integration/installation of Products by Natus must be completed within 12 months after (i) the date of product delivery for training purchased with products and (ii) the start date for services for training and/or installation. Natus may elect to terminate this Agreement if training and/or integration/installation is not completed within the applicable time period. Natus’ obligation to provide the training or integration/installation will expire without refund.

22. Assignment; Use of Subcontractors. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld. Neither party may delegate any of its rights or responsibilities hereunder to any third party without the prior written consent of the other party. Customer agrees to assign this Agreement without the other party’s consent to any person or entity (except to a Natus
competitor) that is an affiliate of such party or that acquires substantially all of the stock or assets of such party’s applicable business if any such assignees agree, in writing, to be bound by the terms of this Agreement. Subject to such limitation, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Natus may hire subcontractors to perform work under this Agreement; provided, however, that Natus will at all times remain responsible for the performance of its obligations and duties under this Agreement.

23. **Medical Diagnosis and Treatment.** Customer hereby acknowledges and agrees that all clinical and medical treatment and diagnostic decisions are the responsibility of Customer and its professional healthcare providers.

24. **Amendment; Waiver; Survival.** This Agreement may be amended only in writing signed by both parties. Any failure to enforce any provision of this Agreement is not a waiver of that provision or of either party’s right to later enforce each and every provision. The terms of this Agreement that by their nature are intended to survive its expiration (such as the confidentiality provisions included herein) will continue in full force and effect after its expiration. Software license provisions applicable to perpetual software licenses fully paid for prior to termination shall survive termination of this Agreement.

25. **Contract Formation.** Natus’ Quotation is subject to withdrawal at any time before acceptance. Customer accepts by signing and returning the Quotation or by sending a purchase order in response to the Quotation. Upon Customer’s acceptance, Natus’ Quotation and the related terms and conditions referred to in the Quotation shall constitute the entire agreement relating to the products and services covered by the Quotation. The parties agree that they have not relied on any oral or written terms, conditions, representations or warranties outside those expressly stated or incorporated by reference in this Agreement in making their decisions to enter into this Agreement. No agreement or understanding, oral or written, in any way purporting to modify these terms and conditions or the Quotation, whether contained in Customer’s purchase order or shipping release forms, or elsewhere, shall be binding on Natus unless hereafter made in writing and signed by Natus’ authorized representative. Customer is hereby notified of Natus’ objection to any terms inconsistent with this Quotation and to any other terms proposed by Customer in accepting this Quotation. Neither Natus’ subsequent lack of objection to any such terms, nor the delivery of the products or services, shall constitute an agreement by Natus to any such terms.

26. **Compliance with Law.** Natus stores data from the contractual relationship created by these Terms and Conditions in accordance with applicable local law for the purpose of data processing and reserves the right to transfer the data to third parties as may be necessary for the fulfillment of the contract. Natus otherwise undertakes to comply with all local and relevant law.