

MICROMED, LLC TERMS AND CONDITIONS OF SALE AND SERVICE

COMPLETE AGREEMENT

A. Customer/Buyer may purchase from MicroMed, LLC ("MicroMed") certain goods, products and/or services by signing and returning to MicroMed a proposal previously submitted by MicroMed to Customer/Buyer (a "Proposal"). Customer's/Buyer's execution of a Proposal shall constitute an acceptance of the Proposal and will form a binding agreement between Customer/Buyer and MicroMed.

B. In the event Customer/Buyer fails to sign and deliver to MicroMed a Proposal but issues a purchase order related to the contents of the Proposal (a "Purchase Order"), such issuance of a Purchase Order by Customer/Buyer shall constitute an acceptance by Customer/Buyer of the Proposal as if Customer/Buyer signed and delivered to MicroMed the Proposal.

C. In addition, in the event a Proposal is not issued to Customer/Buyer by MicroMed, but Customer/Buyer issues a Purchase Order and MicroMed delivers goods or products and/or performs services provided in the Purchase Order, then such acts by the parties will form a binding agreement between Customer/Buyer and MicroMed and the parties rights and obligations with respect to such agreement will be subject to these terms and conditions.

D. For purposes of these terms and conditions, (i) Customer's/Buyer's acceptance of a Proposal (a) by signing and delivering the Proposal to MicroMed as set forth in paragraph A above or (b) issuing a Purchase Order to MicroMed as set forth in paragraph B above or (ii) Customer's/Buyer's issuance of a Purchase Order without receiving a Proposal from MicroMed and MicroMed's subsequent delivery of goods or products and/or performance of services as set forth in paragraph C above, shall be referred to in these terms and conditions as the "Agreement."

E. The sale of any goods, products and/or services to Customer/Buyer by MicroMed is conditioned upon Customer's/Buyer's assent to these terms and conditions, which shall be automatically incorporated into and govern each Agreement.

F. In the event the parties enter into an Agreement pursuant to the procedures set forth in paragraph A or B above, the terms and conditions contained in a Proposal submitted by MicroMed to Customer/Buyer, including these terms and conditions, constitute the sole and entire agreement between the parties and are the only basis upon which MicroMed offers to sell goods, products and services to Customer/Buyer. Any terms contained in Customer's/Buyer's acceptance of a Proposal (whether by signing and delivering the Proposal to MicroMed or issuing a Purchase Order to MicroMed) that are in addition to or conflict with the terms of a Proposal shall not be a part of the Agreement unless a duly authorized representative of MicroMed subsequently provides written acceptance of such additional or conflicting terms.

G. In the event the parties enter into an Agreement pursuant to the procedures set forth in paragraph C above, these terms and conditions constitute the sole and entire agreement between the parties related to the goods, products and/or services set forth in such Agreement and are the only basis upon which MicroMed offers to sell goods, products and services to Customer/Buyer. Any terms contained in Customer's/Buyer's Purchase Order that are in addition to or conflict with these terms and conditions shall not be a part of the Agreement unless a duly authorized representative of MicroMed subsequently provides written acceptance of such additional or conflicting terms.

H. The Agreement supersedes all previous negotiations, agreements and commitments with respect thereto. By signing an Agreement, Customer/Buyer accepts all of these terms and conditions.

PAYMENT AND CREDIT TERMS

Upon MicroMed's approval for credit to Customer/Buyer, terms of payment by Customer/Buyer to MicroMed are net twenty (20) days from the date of each invoice subject to Customer/Buyer maintaining credit arrangements satisfactory to MicroMed. MicroMed reserves the right to revoke credit terms extended to Customer/Buyer in the event (i) Customer/Buyer fails to pay for any goods, products or services, previously or subsequently delivered or performed, when due, or (ii) in the sole judgment of MicroMed there has been a material adverse change in the Customer's/Buyer's financial condition. Upon such determination, MicroMed will apply a service charge at the rate of one and one half percent (1 ½%) per month on any unpaid balance. MicroMed shall have the right to demand payment or other assurances which it deems adequate before the shipment or performance of any other goods, products or services and any delay in shipment or performance of goods, products or services resulting from Customer/Buyer's failure to satisfy MicroMed's demand for payment or other assurance shall not constitute a breach of an Agreement by MicroMed.

TAXES AND OTHER CHARGES

In addition to the purchase price for goods, products and/or services, Customer/Buyer shall pay all applicable taxes (including sales and use taxes), and similar charges imposed by government entities, whether federal, state, or local.

SHIPMENTS AND DELAYS

Customer/Buyer shall be responsible for payment of all freight, shipping and delivery charges. The "shipping" charge shown on the front page of the invoice may not necessarily reflect the exact charges paid by MicroMed to the carrier due to volume incentive discount agreements entered into between MicroMed and the carrier. All shipments are, unless otherwise specifically provided, F.O.B. MicroMed's facility. All risk of loss or damage shall be borne by Customer/Buyer upon shipment from the shipping point. All claims for breakage and damage should be made by Customer/Buyer directly to the carrier, however, MicroMed will provide reasonable assistance to Customer/Buyer in seeking payment or adjustment of such claim. MicroMed will make a good faith effort to ship goods or products by any shipping date set forth in an Agreement; however, such shipping date is an estimate only and MicroMed shall not be liable for any delays in shipment and a delay in shipment shall not relieve Customer/Buyer of its obligations to accept the goods or products. MicroMed shall be excused from performing its obligations and responsibilities with respect to delivery of goods and products and performance of services and shall not be liable for or be in breach of any agreement subject to these terms and conditions resulting from any delay or failure in delivery of goods and products or performance of services due to causes beyond the reasonable control of MicroMed, which shall include, without limitation, acts of God, damage to facilities, strikes or other labor difficulties, fire, flood, natural disaster, acts of terrorism, material shortages or requirements of any governmental authority.

INSPECTION, ACCEPTANCE, AND RETURNS

All shipments will be inspected by MicroMed personnel prior to transit and should be thoroughly inspected by Customer/Buyer upon receipt. Failure by Customer/Buyer to reject any delivery upon receipt shall constitute acceptance of that delivery and shall be deemed a waiver of any other right to reject or revoke acceptance. All claims arising from overage, shortage, defective or damaged goods or products shall be made within five (5) days of receipt by Customer/Buyer of such goods or products and should

reference the original Agreement. MicroMed may at its discretion require payment of a restocking fee in the amount of 20% of the selling price of the good(s) or product(s) as a condition to authorizing a return. CREDIT CANNOT BE ALLOWED FOR MERCHANDISE RETURNED WITHOUT PRIOR WRITTEN AUTHORIZATION AND IS SUBJECT TO A QUALITY ASSURANCE INSPECTION. All original containers and packing materials must be used when returning a shipment to ensure proper credit. If the original materials are not available, packing materials of the same quality and grade must be used. Credit and/or replacement will be given against the Customer's/Buyer's account; no cash refunds will be made. Goods and products returned to MicroMed's facility after seven (7) days from Customer's/Buyer's receipt of such goods or products without approval will be refused and not refunded.

CHOICE OF LAW AND JURISDICTION

All Agreements are deemed to have been made in Marion County, Indiana and shall be governed by and construed in accordance with the laws of the State of Indiana, without reference to the conflict of laws rules thereof. Customer/Buyer and MicroMed agree that any legal action relating to the Agreements and transactions governed by these terms and conditions shall be commenced and maintained exclusively before any appropriate state court of record in Marion County, Indiana, or, if necessary, the United States District Court for the Southern District of Indiana, and Customer/Buyer and MicroMed hereby submit to the jurisdiction of such courts and waive any right to challenge or otherwise raise questions of personal jurisdiction or venue in any action commenced or maintained in such courts.

ATTORNEY'S FEES, COSTS AND COSTS OF COLLECTION

Customer/Buyer agrees to pay any and all reasonable costs, legal fees, and expenses incurred by MicroMed resulting from all controversies, disputes or claims which are adjudicated or settled favorable to MicroMed. Customer/Buyer agrees to pay all expenditures incurred by MicroMed in any attempt to collect amounts due from Customer/Buyer. Furthermore, in the event of a default by Customer/Buyer under an Agreement, MicroMed shall have all remedies available under the Indiana Uniform Commercial Code, Ind. Code § 26-1-1-1 et seq., as amended, and as otherwise provided by applicable law.

LIMITED WARRANTIES AND REPAIR EXCEPT FOR THE LIMITED WARRANTIES SET FORTH BELOW, MICROMED MAKES NO, AND DISCLAIMS ALL, REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, CONCERNING ANY GOOD, PRODUCT, SERVICE, PATENTS OR TECHNOLOGY (INCLUDING ANY GOOD, PRODUCT, SERVICE, PATENTS OR TECHNOLOGY USED OR INCLUDED IN OR WITH ANY GOOD, PRODUCT OR SERVICE) PROVIDED BY MICROMED. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH BELOW, ALL GUARANTIES, WARRANTIES, CONDITIONS AND REPRESENTATIONS WHATSOEVER, EITHER EXPRESS OR IMPLIED, AND WHETHER ARISING UNDER ANY STATUTE, LAW, COMMERCIAL USAGE OR OTHERWISE, ARE HEREBY EXPRESSLY EXCLUDED. MICROMED CAN NOT BE HELD LIABLE FOR FALSE OR TAMPERED SERIAL NUMBERS WHICH MICROMED HAS NO CONTROL OVER.

CUSTOMER/BUYER ACKNOWLEDGES AND AGREES THAT MICROMED SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES THAT CUSTOMER/BUYER MAY INCUR FROM DELAYED SHIPMENT, PRODUCT FAILURE, PRODUCT DESIGN OR

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PRODUCTION OR FROM ANY OTHER CAUSE, WHETHER LIABILITY IS ASSERTED IN CONTRACT OR TORT (INCLUDING NEGLIGENCE AND STRICT PRODUCT LIABILITY). IN NO EVENT SHALL MICROMED BE LIABLE FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR SIMILAR DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS OR LOSS OF USE. MICROMED'S LIABILITY UNDER THIS LIMITED WARRANTY SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT STATED BELOW, AND IN NO EVENT SHALL BE GREATER THEN THE PURCHASE PRICE PAID BY CUSTOMER/BUYER.

Subject to the above exclusions and upon the conditions stated below, MicroMed warrants to Customer/Buyer that the products and goods sold by MicroMed to Customer/Buyer shall be free of defects in workmanship and materials at the time of shipment, unless otherwise specifically stated on the invoice. The foregoing warranties with respect to products and goods shall extend for a period of one (1) year commencing on the date of shipment of a product or good to Customer/Buyer and is conditioned on Customer's/Buyer's normal use and service of such product or good. MicroMed further warrants that services performed by MicroMed technicians will be free of defects in workmanship and materials, unless otherwise specifically stated on the invoice. The foregoing warranties with respect to the performance of services by MicroMed technicians shall extend for a period of 120 days commencing on the date such service is completed. These warranties extend to the original Customer/Buyer and no others. If any good, product or service should prove to be defective during the applicable warranty period set forth above, other than defects specially stated on the invoice, Customer/Buyer must promptly notify MicroMed in writing of such defect and (i) with respect to defective products or goods, Customer/Buyer must return the defective product or good to MicroMed and MicroMed agrees, at its option, either (a) to repair or (b) to replace with an equivalent product or good, any defective product or good, provided that MicroMed's investigation and factory inspection disclose that such defect was not a result of any of the enumerated items listed under Exclusions to Warranties below and (ii) with respect to defective services, MicroMed will reperform the service, provided that MicroMed's investigation and inspection disclose that such defect was not a result of any of the enumerated items listed under Exclusions to Warranties below. Failure by Customer/Buyer to promptly notify MicroMed of a warranty claim shall be deemed a waiver by Customer/Buyer of such warranty claim and MicroMed shall have no warranty obligation with respect thereto. MicroMed may use reconditioned, refurbished, and/or serviceable used parts (tested to MicroMed quality assurance standards) for warranty or other repairs. All warranty work shall be performed at MicroMed's repair facility in Indianapolis, IN. All shipping charges to and from said facility shall be paid by Customer/Buyer. THE FOREMENTIONED REMEDIES ARE CUSTOMER'S/BUYER'S EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY WITH RESPECT TO PRODUCTS, GOODS AND SERVICES SUBJECT TO THESE TERMS AND CONDITIONS AND CUSTOMER/BUYER HEREBY WAIVES ALL OTHER REMEDIES PROVIDED BY APPLICABLE LAW OR EQUITY.

OTHER REPRESENTATIONS: Representations and warranties made by any person, including representatives of MicroMed, which are inconsistent or in conflict with the terms of this warranty, shall not be binding upon MicroMed, unless reduced to writing and approved by an expressly authorized officer of MicroMed.

EXCLUSIONS TO WARRANTIES

Excluded from the warranties provided herein and not warranted by MicroMed in any fashion, either expressed or implied, are: defects and damage to products and goods resulting from wear, tear, misuse, negligence, improper storage, transit, improper cleaning or reprocessing practices using any and all scope reprocessing systems, non-performance of scheduled operator and equipment maintenance items, battery leakage, or use of non-approved accessories, consumables, or supplies. MicroMed provides no warranty for endoscopes, parts, accessories or light source/processor that exhibit physical damage or that fails under any of the following exclusions: endoscope or light source/processor packaged or shipped not per MicroMed Packaging and Shipping Guidelines; endoscope or light source/processor damaged during installation or removal (such as broken connector, broken pins, broken seals, holes, cut or tears in bending rubber sheath or any other part of endoscope, Minor/Major Fluid Invasion, acts of God); endoscope or light source/processor damaged by any user during use; endoscope or light source/processor damaged by modification or repair not authorized by MicroMed; endoscope or light source/processor that has been the subject of abuse, unreasonable use, or mistreatment; endoscope or light source/processor damaged by environmental conditions (such as corrosion or staining); endoscope or light source/processor determined to be stolen or scrapped; or other exclusions as published from time to time at <http://www.micromedllc.com>. Cuts or tears in Biopsy Channels/Suction Channels/Bending Rubber Sheaths/External insertion tube/Light Guide Tube, Rubber Parts or any damage to equipment from fluid invasion is not covered under warranty. Instrument must be leak tested prior to procedure and cleaning.

ACTS VOIDING WARRANTY

The warranties provided in these terms and conditions do not apply to any product or good which has been disassembled, repaired, tampered with, altered, changed, or modified by any person(s) other than MicroMed's own personnel, unless such repair by person(s) other than MicroMed is made with the prior written consent of MicroMed. Repairs performed without MicroMed's prior approval shall not be covered by the warranties set forth in these terms and conditions. In addition, the warranties provided in these terms and conditions do not apply to any product or good and/or related service in the event that any of the following occur: Endoscope or light source/processor being defaced (such as label alterations, serial number missing, serial number no longer discernible, serial number invalid); endoscope or light source/processor warranty labels being removed or destroyed; endoscope or light source/processor being damaged due to lack of ESD protection.

LIMITATION OF REMEDIES

IN NO EVENT SHALL THE AGGREGATE LIABILITY OF MICROMED TO CUSTOMER/BUYER ARISING OUT OF, RELATED TO OR IN CONNECTION WITH THE SALE OF GOODS OR PRODUCTS AND/OR THE PROVIDING OF SERVICES PURSUANT TO AN AGREEMENT, ON ALL CLAIMS OF ANY KIND, WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EXCEED THE PURCHASE PRICE PAID TO MICROMED BY CUSTOMER/BUYER FOR SUCH GOODS, PRODUCTS AND/OR SERVICES.

INDEMNIFICATION

Customer/Buyer agrees to defend, indemnify and hold harmless MicroMed, its agents, officers, employees, successors and assigns (the "Indemnified Parties") from any and all liabilities, obligations, settlements, losses, claims, damages, penalties, payments, actions, lawsuits, judgments, costs, expenses or disbursements of any kind or nature whatsoever (including reasonable attorneys' fees) which maybe imposed on, incurred by or asserted against the

Indemnified Parties relating to or arising out of the possession, use or operation of any goods or products by Customer/Buyer.

ADDITIONAL TERMS AND CONDITIONS

MicroMed does not include standard accessories with any purchase of endoscope, light source, processor, (which are designated in the items operation manual). Pre-Owned (Used) Endoscopes, (Used) Light Sources/Processors, Endoscopy Equipment are USED GOODS AND ARE NOT IN NEW CONDITION (unless Specified) and such goods may have cosmetic defects, Dings, Dents, Plastic or Paint blemishes and may not contain Original Equipment Manufacturer (OEM) repairs and repair parts. CUSTOMER/BUYER ACCEPTS THE FOREMENTIONED GOODS "AS IS, WHERE IS" AND "WITH ALL FAULTS." No rights arising under an Agreement may be assigned by Customer/Buyer unless expressly agreed to in writing by MicroMed. Failure by MicroMed to insist upon strict compliance with any of the terms or conditions of an Agreement, including these terms and conditions, shall not be deemed a waiver of such terms or conditions, nor shall any waiver or relinquishment of any right or power at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times. In case any one or more of the provisions contained in an Agreement, including these terms and conditions, shall be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained therein shall not in any way be affected or impaired thereby. Customer/Buyer agrees that it will not disclose the terms of any Agreement, including these terms and conditions, to any third party without the prior written consent of MicroMed. MicroMed and Customer/Buyer are independent contractors and nothing contained in an Agreement or these terms and conditions shall be construed to place the parties in the relationship of employer and employee, partners, principal and agent, or joint venturers. Neither party shall have the power to bind or obligate the other party nor shall either party hold itself out as having such authority. If Customer/Buyer is an institution required to file Medicare/Medicaid cost reports with Federal or State agencies for payment, Customer/Buyer acknowledges that Customer/Buyer has an obligation under Federal law to fully and accurately report all discounts received in its cost reports. (Public Law 100-93, the "Medicare and Medicaid Patient and Program Protection Act of 1987"; 42 CFR part 1001).