

## GETINGE TERMS AND CONDITIONS OF SALE

**The sale of any product sold by Getinge (“Product”) is expressly conditioned on Customer's assent to these Terms and Conditions. Any additional or different terms proposed by Customer, in a purchase order or otherwise, are expressly rejected and will not be binding upon Getinge unless agreed to in writing. Any oral or written representation, warranty, course of dealing or trade usage not contained in these Terms and Conditions shall not be binding on either party. Any order for Products or Getinge's delivery of Products shall constitute assent to these Terms and Conditions.**

### 1) Pricing; End-User.

The price for any Product is as set forth in the applicable Getinge price quotation or proposal, or, if an order is placed in another manner, the price shall be the Customer’s pre-negotiated price approved by and on file with Getinge at the time the order is placed. Getinge’s prices do not include sales, use, excise or similar taxes. Unless otherwise agreed in writing, additional charges may apply for shipping, handling, and installation. Unless otherwise approved by Getinge, Customer represents that it is the end-user of the Products and is not purchasing the Products for subsequent sale or commercialization.

2) Taxes. Each party will be responsible, as required under applicable law, for identifying and paying all taxes that are imposed on that party with respect to the transactions and payments thereunder. Customer agrees to pay applicable sales, use, value added, excise and services taxes that Getinge includes on invoice and is legally obligated to collect from Customer. However, if Customer furnishes, or has furnished, Getinge with an exemption certificate covering such taxes, it is not obligated to pay such taxes to Getinge.

### 3) Payment Terms.

a) Products that require Getinge design and/or installation services.

Upon receipt of a valid Purchase Order, Supplier will issue an invoice for a deposit that totals thirty percent (30%) of the total purchase amount, Purchaser agrees to pay invoice within thirty (30) days. Following Supplier's shipment(s) of Product, Supplier will invoice Purchaser on a per shipment basis, a cumulative total that will not exceed fifty percent (50%) of the total purchase amount, which is due within thirty (30) days following each shipment of Product or receipt of the invoice, whichever date is later, with the balance of the purchase price being due within thirty (30) days of receipt of the invoice after Product Acceptance of such installed Product(s).

b) For all other Products.

Payment for is due within thirty (30) days from the date of Getinge’s invoice. Customer must promptly notify Getinge of any pricing errors. Billing disputes may not be cause for Getinge’s non-delivery of any future Products. Customer may not deduct or set off any amount owed between Getinge and Customer.

4) Inspection; Acceptance; Returns. Customer shall inspect all deliveries upon receipt for damage or missing Products and shall promptly notify Getinge of any issues. Products shall be deemed accepted upon the earlier of installation, first use, or thirty (30) days following delivery. All Product returns are subject to Getinge’s Returned Goods Policy, available at: [Getinge USA Sales LLC Returned Goods Policy](#)

## 5) Cancellation and Customer Postponement.

### a) Cancellation.

1. Customer may, with Getinge's prior written consent, cancel certain non-customized or non-specialized orders without penalty within forty-five (45) days of Getinge's receipt of Customer's valid purchase order.
2. Unless authorized by Getinge, Customer may not cancel orders for Equipment, custom-configured Products, or off the shelf Products that Getinge has provided a quote for special configuration.
3. Cancelled orders are subject to a thirty percent (30%) cancellation fee which will be invoiced and due immediately.

### b) Customer Postponement.

If Customer fails to take delivery of any Product that requires design and installation services, on the scheduled delivery date, Getinge shall store Product, at Customer's expense. Customer shall be invoiced monthly for reasonable storage costs beginning on the date of the scheduled delivery. In the event of postponement, on the scheduled delivery date, Equipment and Product will be deemed shipped and title will transfer to Customer and the next scheduled payment will be due.

6) Delivery Terms. Products shall be shipped FOB Shipping Point, from Getinge's warehouse, with freight prepaid and added to the invoice. Getinge will select the method of shipment and carrier to be used. For Products that require Getinge design and installation services, Getinge agrees to promptly deliver Products ordered directly by Customer and shall direct its invoices to the ordering organization in accordance with this Agreement. Title shall pass to Customer upon shipment, Getinge agrees to work with Customer to expedite Product replacement and file insurance claims if Product is lost or damaged during shipment.

Within seven (7) calendar days after receipt of a purchase order from Customer, Getinge will provide the estimated lead time from the date of such purchase or lease order until delivery of the Product at the Buyer's location.

7) Product Warranty. Getinge's Standard Warranty Policy shall apply to all Product purchases. Getinge's Standard Warranty Policy is available at: [Getinge USA Sales, LLC Standard Warranty Policy](#)

## 8) Indemnification.

a) General Indemnity. Unless prohibited by state law, each party shall, at its expense, indemnify, hold harmless and, at the other party's request, defend the other party and its directors, officers, employees and agents, from and against all losses, costs, liabilities, or expenses (including reasonable attorneys' fees and legal costs) arising out of any third-party claims related to the indemnifying party's performance under this Agreement to the extent caused by any grossly negligent act or omission or willful misconduct of the indemnifying party, or its employees or agents, that contributes to: (i) any personal injury, sickness, disease, or death; (ii) any damage to, or destruction of, property of the indemnified party; or (iii) the indemnifying party's violation of any statute, ordinance, or regulation.

b) Infringement Indemnity. Unless prohibited by state law, Getinge shall indemnify and hold harmless Customer and its directors, officers, employees, and agents, from and against all losses, costs, liabilities, or expenses (including reasonable attorneys' fees and legal costs) arising out of any third-party claims brought against Customer that the Products infringe any U.S. patent or

copyright of such third-party. The foregoing indemnity shall not apply to the extent such alleged or actual infringement arises as a result of modifications of the Products made by Customer or any of its directors, officers, employees, or agents, or the Products' use with any items not sold by Getinge.

c) Indemnity Procedure. The indemnifying party shall defend, at its expense, any such third-party claims provided that: (i) the indemnified party gives the indemnifying party prompt notice in writing of the third-party claims and permits the indemnifying party, through counsel of its choice, to answer and defend such claims; and (ii) provides all needed information, assistance, and authority, at the indemnifying party's expense, to enable them to defend such claims. The indemnifying party shall not be responsible for payment of any amounts under any settlement made without its prior written consent. In settling any claims hereunder, neither party shall be entitled to admit any liability on behalf of the other party.

d) Limitations of Indemnities. Notwithstanding the foregoing, neither party shall have any indemnification obligation to the other, to the extent: (i) the Products are used in a manner inconsistent with their instructions for use, Product labeling, or other Product documentation, including the use of the Products with any attachments, systems, or devices not identified in the instructions for use as compatible; (ii) any modifications of the Products made by Customer or any third-party, or (iii) the losses, costs, liabilities, or expenses (including reasonable attorneys' fees and legal costs) arose as a result of the indemnified party's gross negligence or willful misconduct.

9) Insurance. Getinge and Customer each agree to maintain the following insurance coverages with licensed insurers with a minimum A.M. Best rating of "A" with the following minimum limits: (a) Commercial general liability, including products liability and completed operations coverage, with a least \$1,000,000 each occurrence and \$3,000,000 general aggregate; (b) Automobile liability coverage for all owned, non-owned, and hired vehicles, with at least \$1,000,000 each occurrence; and, (c) Workers compensation insurance in amounts that satisfy applicable statutory limits. Upon request, Getinge shall provide to Customer a certificate or other evidence of insurance in form and amounts in compliance with this section.

10) LIMITATION OF LIABILITY. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY COMMERCIAL LOSSES, LOSS OF REVENUES OR PROFITS, LOSS OF GOOD WILL, INCONVENIENCE, OR EXEMPLARY, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES WHATSOEVER, REGARDLESS OF THE FORM OF ANY CLAIM, WHETHER IN CONTRACT OR TORT, WHETHER FROM BREACH OF THIS AGREEMENT OR DEFECTIVE PRODUCTS, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS AGREEMENT, EXCEPT FOR CLAIMS FOR INDEMNIFICATION, THE MAXIMUM LIABILITY OF EITHER PARTY FOR ANY BREACH OF THIS AGREEMENT SHALL IN NO EVENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO GETINGE FOR PRODUCTS SOLD UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

11) Confidential Information. Each party agrees to keep confidential any non-public information of the other party received in any form, including without limitation, these Terms and Conditions, any Product instructions for use or documentation, and any line-item Product pricing and discounts. Each party will treat confidential information with the same degree of care as it keeps its own confidential information, but in no event with less than reasonable care. Each party may share the confidential information with its

employees, representatives, and advisors, subject to the same restrictions set forth herein. If the disclosure of the other party's confidential information is required by law, the party required to make such disclosure shall provide sufficient notice to the other party to allow such party time to take legal or other action to prevent or obtain confidential treatment of such disclosure. The Product line-item pricing offered by Getinge is a trade secret likely to cause Getinge substantial competitive harm if disclosed and is exempt from freedom of information act disclosure on this basis, provided, however, that the total price paid under such transaction may be disclosed.

12) Discount Disclosure. The prices for the Products may reflect discounts, rebates, or other reductions in price. Customer agrees to appropriately report and reflect the net price of purchased Products, inclusive of all discounts, rebates, and reductions in price, on cost reports or claims submitted to third-party payors, including federal and state healthcare programs, in accordance with Section 1128B(b)(3)(A) of the Social Security Act, 42 C.F.R. §1001.952(h), and 42 U.S.C. §1320a-7b(b)(3)(A), and other applicable laws and regulations, as amended. Customer shall retain these Terms and Conditions, applicable price quotations, and related documentation identifying Product discounts, rebates, and reductions in price, and make such information available to federal and state healthcare programs upon request. Customer may request additional information and documentation from Getinge to facilitate its reporting obligations.

13) Fraud and Abuse. Getinge and Customer intend and acknowledge that no part of this transaction, nor any payment made hereunder, is in exchange for any explicit or implicit agreement or understanding that Customer refer, prescribe, recommend, use, or purchase any products of Getinge, and that the prices for the Products purchased hereunder represents the fair market value thereof, and have not been determined in any manner that takes into account the volume or value of any referrals or business between Getinge and Customer.

14) Debarment. Each party represents and warrants that neither it, nor any of its affiliates, employees, agents, or representatives ("Representatives") performing under these Terms and Conditions are or have, within the past five (5) years, been debarred or excluded from participation in any federal or state healthcare programs. Each party will promptly notify the other in the event of any actual or threatened debarment of any party or its Representatives. Either party may terminate any pending transactions made pursuant to these Terms and Conditions upon receiving such notice.

15) Books and Records. Getinge agrees that, until the expiration of four (4) years after the furnishing of any services pursuant to these Terms and Conditions, it will make available upon written request of the Secretary of Health and Human Services or the Controller General of the United States or any of their duly authorized representatives, copies of these Terms and Conditions and any other data of Getinge necessary to certify the nature and extend of costs incurred by Customer for purchases.

16) Force Majeure. Neither party shall be liable for any delay or failure of performance if and to the extent such delay or failure is caused, directly or indirectly, by circumstances beyond its reasonable control and that by the exercise of due diligence it is unable to prevent, including without limitation acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, flood, the elements, epidemics or pandemics, strikes, labor disputes, shortages of fuel, power, suitable parts, materials, labor or transportation, government or regulatory restrictions or regulations, provided that the non-performing party uses its commercially reasonable efforts to overcome the same.

17) Remedies. The rights and remedies of each party provided under these Terms and Conditions are cumulative and not exclusive. Such rights and remedies are in addition to any other rights and remedies provided at law or in equity.

18) Independent Contractors. The relationship of the parties is that of independent contractors. Neither party shall be considered a partner, agent, or employee of the other. Neither party has any express or implied right to assume or create any obligation on behalf of, or in the name of, the other party or to bind the other party to any contract, agreement or undertaking with any third party, and no conduct of a party shall be deemed to imply such right.

19) Assignment. Neither party shall assign their rights and obligations under this transaction to any third-party, except to a whollyowned subsidiary, without the prior written consent of the other party. Any permitted assignee shall assume in writing all obligations of the assigning party as set forth hereunder.

20) Entire Agreement. These Terms and Conditions and the applicable Getinge price quotation or proposal contains the entire agreement between the parties with respect to this transaction, and supersedes all previous agreements, negotiations, discussions, writings, understandings, and commitments related thereto. Any modification to these Terms and Conditions or the applicable Getinge price quotation or proposal must be in writing and signed by each party's authorized representative.

21) Governing Law. These Terms and Conditions shall be governed by the laws of the State of New York, United States, without regard to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

22) Arbitration. Getinge and Customer agree that all disputes arising out of these Terms and Conditions will be resolved by a single binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and will be conducted exclusively in New York and governed by New York laws.

23) Notice. Any notices required or permitted under these Terms and Conditions shall be in writing and will be sent by recognized national or international overnight courier or registered or certified mail, postage prepaid, return receipt requested, or delivered by hand to the address set forth in the Purchase Order. Notices will be deemed to be duly given: (a) when delivered by hand; (b) two days after deposit with a recognized national or international courier; or (c) on the delivery date indicated in the return receipt for registered or certified mail. A party may change its contact information immediately upon written notice to the other party in accordance with this section.

24) Waiver. Any waiver of any rights or obligations under these Terms and Conditions must be mutually agreed upon in writing and signed by an authorized representative of each party. No act or omission, including delivery or payment for a Product, shall constitute a waiver of any right or obligation hereunder.

25) Severability. If any provision of the Terms and Conditions is held to be invalid or unenforceable, the remaining provisions will remain in full force and effect.

26) Survival. All provisions of these Terms and Conditions that by their nature should survive the performance of the transactions made hereunder shall do so, subject to the limitations contained herein