

CONSIGNMENT AGREEMENT

This consignment agreement ("Agreement") shall take effect on and from [DATE] (the "Effective Date"), is made by and between [Customer's full legal name] ("Customer"), having a healthcare facility with an address at [Address] ("Facility"), and Smith & Nephew Healthcare Sdn Bhd having an address at [Address] ("S&N").

Consigned Products. S&N will deliver and consign to Customer certain products ("Products") and/or certain capital equipment ("Equipment") from time to time (together the "Consigned Goods").

Location and Storage. All rights, title and interest in the Products remain with S&N until the Product is consumed by you. You will keep the Products free of charges or any security interests and will not pledge or grant a security interest of any kind in any Products to anyone. Upon delivery of Products, risk of loss of Products passes to you. You will store the Products in a specifically designated storage area of your facility separate from other products. You will maintain an adequate climate-controlled environment in the storage area for safe keeping and the Products will be handled only by properly trained personnel. The consigned Products will not be moved from the Facility.

Product Consumption. As needed, Customer will withdraw and use consigned Products on a first-in, first-out basis, ensuring consigned Product is suitable for use. Consigned Products that are either (i) opened and used or (ii) opened and not usable for a subsequent procedure or patient will be deemed consumed by Customer. Customer promptly (no later than two days after Product consumption) will provide a purchase order to S&N for each Product consumed to facilitate invoicing for and replenishment of such Product. Customer's purchase order will reflect Customer's then-current pricing pursuant to a written agreement between S&N and Customer, or if no such agreement is in effect, the purchase will be invoiced at S&N's then current published list price and S&N's Standard Terms and Conditions will apply to the purchase of consigned Product. S&N's Standard Terms and conditions can be found at S&N's website at www.sntandc.com.

Replenishment. The parties enter this Agreement with the expectation that the consigned Product will be consumed and replenished on a regular commercially reasonable basis in order to support the mix and quantity of consigned Product requested by Facility for its patient care needs. Customer and S&N will review the levels and composition of consigned Product on a regular basis (no less than bi-annually). Periodic adjustments of consigned Product may be made by the parties in conjunction with these reviews to achieve a reasonable balance between Product inventory levels and Customer's requirements.

Equipment Ownership and Use. The Equipment shall remain the property of S&N at all times, title does not pass to you and you will not have any ownership interest in the Equipment. In no event will you be entitled to transfer or sell the Equipment. You will keep the Equipment in a safe and secure environment and free from all encumbrances and will provide such reasonably requested documents to S&N that it deems necessary to maintain its interest in the Equipment. You shall comply with all laws, ordinances, and regulations with respect to the maintenance and operation of the Equipment. You shall not make any modifications, alterations or additions to the Equipment. At any time upon reasonable request and during normal hours of operation, you grant S&N or its authorized representative full access to the Equipment for inspection, serial or lot number verification or testing.

Transfer of Equipment. S&N may at any time require you to transfer the Equipment to any third party. You shall ensure that the Equipment is not issued or transferred to any third party unless instructed or authorized in writing by S&N.

Return of Equipment. You shall return all Equipment in good working order to S&N upon request. You will be invoiced for any repair costs to restore non-working Equipment to good working order and you will be invoiced for the fair value of the Equipment if it is not received by S&N within 15 days of the date of request from S&N.

Repair and Service. All repairs must be performed by S&N and you shall be billed for services on a time and materials basis for such work.

Insurance. Customer will maintain in full force and effect insurances in respect of the Consigned Goods in form and substance reasonably satisfactory to S&N, subject to such exclusions as are usual and customary in the worldwide insurance marketplace.

Termination. Either party may terminate this Agreement, with or without cause, by giving thirty (30) days' prior written notice to the other party. Customer will have fourteen (14) days from the effective date of termination to return consigned Product to S&N. Failure to return consigned Product will result in Customer's purchase of the Consigned Goods at the prices and on the terms and conditions specified above.

Inspection and Records. S&N will have the right to remove all or some of the Consigned Goods without notice in the event of a material breach by Customer of any provision of this Agreement or any other agreement between the parties. All of the records and reports Customer maintains pursuant to this Agreement will, at all times, be maintained at the Facility and will be subject to inspection upon reasonable notice during normal business hours. Customer will provide S&N employees and authorized representatives with access to the Storage for inventory audits upon reasonable notice during normal business hours.

Compliance. S&N's provision of Consigned Goods will not be construed to constitute a promotion or approval by S&N of uses that are other than, or contrary to, those indications (commonly called "off-label" uses). S&N will not be responsible for

damages or losses of any kind arising out of "off-label" uses. All transactions with S&N in connection with the Consigned Goods are made in good faith on the basis of arms' length negotiation. You will comply with all applicable laws in connection with these terms and conditions and the use of the Consigned Goods and all applicable related regulations. The consignment of Consigned Goods at your facility is not a discount or kick back and is made in accordance with market practice in the medical devices industry and Smith & Nephew policies and procedures. You agree that you will also comply with the Smith & Nephew Code of Conduct which can be found at: <http://compliance.smith-nephew.com> and such policies and procedures as we may notify to you from time to time.

Limitation of Liability; No Implied Warranty. Under no circumstances will S&N be liable for any incidental, consequential or special damages, losses or expenses (including, without limitation, lost profits and opportunity costs, damage to goodwill, or loss of use or loss of information of any kind, however caused) arising from this Agreement or its performance, or in connection with the use of, or inability to use, the Consigned Goods. Customer's sole remedy will be the repair or replacement by S&N of the Consigned Goods that are determined to be materially defective in material or workmanship. **THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

Miscellaneous. This Agreement, including all other documents referred to in it, constitutes the entire agreement between the parties regarding the subject matter of the Agreement and supersedes all prior oral or written agreements, understandings, representations and warranties and courses of conduct and dealing between them which relate to the subject matter of the Agreement. No amendment, change, modification, alteration, or renewal of this Agreement will be binding unless it is in writing and signed by duly authorized representatives of the parties. A waiver or consent, express or implied, by any party of a breach or failure to perform under this Agreement will not be a waiver of any subsequent breach or non-performance. This Agreement will be construed in accordance with the laws of Malaysia, without regard to or application of conflict of law principles. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof shall be finally settled by binding arbitration in Kuala Lumpur in accordance with the Rules for Arbitration of the Kuala Lumpur Regional Centre for Arbitration ("KLRC Rules"). The arbitration shall be conducted in the English language, by a sole arbitrator appointed in accordance with the KLRC Rules. If any legal proceeding arises relating to this Agreement, the prevailing party will be entitled to recover its costs and expenses associated with same, including, but not limited to, reasonable fees and costs for attorneys, accountants, collection, expert witnesses and other professionals.

Customer Acceptance: **[Customer Name]**

Smith & Nephew Healthcare Sdn Bhd

| | |
|----------------|------|
| Signature | Date |
| Name (Printed) | |
| Title | |

| | |
|-----------|------|
| Signature | Date |
| Name | |
| Title | |