ISSUED: June 2016

provisions at Trump Medical’s discretion, if the value of the securities exceeds the claims to be secured by more than 10%. The realistic value shall be decisive for the valuation security.

VII Duties of Inspection and Notice of Defects
The buyer shall be obliged to inspect the packaging and any products immediately upon delivery and to report any damaged or undersized shipment.

2. Obvious defects, including but not limited to damages resulting from transport damages, shall be notified to Trump Medical within writing, without delay, in any event within 10 days of receipt of the delivery at the latest.

3. The buyer loses the right to rely on a lack of conformity of the products if the buyer does not notify Trump Medical of the defect within the time limits prescribed in this Section X, regardless of the fact that Trump Medical is aware of the defects being concealed.

XIII Warranty of Quality of Used Trump Medical Products

1. The buyer’s warranty rights are determined by the applicable provisions of the laws of Germany, unless otherwise provided in the provisions hereafter.

2. The utilities installation and handover of the products to the hospital staff has to be documented in writing. The start of the warranty period depends on the return of the completed warranty form for the products, which includes the Medical Equipment Hand-over Protocol. The warranty period is determined in 43 languages from Trump Medical. The non-return of the two protocols within 6 weeks after installation of the product invalidates the warranty.

3. All the products of Trump Medical are warranted for 12 months from the date of delivery.

4. Any defects shall be notified to Trump Medical within writing, without delay, in any event within 10 days of receipt of the delivery at the latest.

5. In the case of any defect as to quality, the buyer shall be entitled ultimately to supplementary performance or to reduce the purchase price or rescission of the purchase contract. Prior to a successful rectification of defects as to quality, Trump Medical shall have the right to notify the buyer that no rectification shall take place if the purchase price or the purchase price plus any improvement by the buyer remuneration.

6. If the supplementary performance is unsuccessful twice or is delayed for reasons for which the buyer is not responsible, the buyer may demand rescission in lieu of performance because of failure to perform or to perform properly in respect of a defect as to quality only in the second place, i.e. after the failure of the supplementary performance, or after Trump Medical has declared that no rectification shall take place.

XIV Right of Set-off

1. Trump Medical shall be liable in the event of intentional behavior or gross negligence by its officers, employees or any other person employed by Trump Medical in performing a task related to the use of the products, which Trump Medical is aware of the damage having been taken out. The buyer already now assigns to Trump Medical his claims under this insurance by way of security.

2. If the products are subject to relocation of title become inseparably connected or mixed with other products, Trump Medical shall have title to the new products. Claims out of the sale of goods, which Trump Medical reserved title are hereby already assigned to Trump Medical, such assignment being limited to the amount of the invoice value of products for which Trump Medical has reserved title, in case of sale of Trump Medical’s products together with other products shall be subject to transfer of these claims.

3. The buyer shall only be entitled to sell products that are subject to retention of title in the ordinary course of business. The buyer shall not be entitled to dispose of the products in any other way, especially by pawning or as collateral. In case of a seizure or other measures of commercial law parties, the buyer shall be obliged to inform Trump Medical of the products’ products together with other products shall be subject to transfer of these claims.

4. The buyer shall only be entitled to sell products that are subject to retention of title in the ordinary course of business. The buyer shall not be entitled to dispose of the products in any other way, especially by pawning or as collateral. In case of a seizure or other measures of commercial law parties, the buyer shall be obliged to inform Trump Medical of the products’ products together with other products shall be subject to transfer of these claims.

5. If there are justifiable grounds for doubts as to the solvency or creditworthiness of the buyer, Trump Medical shall be entitled to prohibit the further sale or processing of defective products. Trump Medical’s written notice to the effect of the buyer. Taking back products subject to retention of title does not constitute a substitute for repair or termination of contract.

6. Trump Medical undertakes, at the request of the buyer, to release securities (products and accounts receivable) to which Trump Medical is entitled according to the above
Medical shall have the right, without obligation and at its sole option, to: (i) procure for buyer the right to continue to use or sell the product, (ii) provide a replacement product, or (iii) modify the product in such a way as to make the modified product non-infringing; or (iv) terminate any transaction to the extent related to such Trumpf Medical product.

5. Subject to the exclusions and limitations set forth under section X above, the foregoing states Trumpf Medical’s entire liability and obligation to buyer and buyer’s sole remedy with respect to any actual or alleged infringement of an intellectual property right or any other proprietary right of any kind.

XII Applicable National and/or International Laws, Rules and Regulations
1. The buyer shall comply with all applicable national and/or international laws, rules and regulations concerning medical devices, including but not limited to the Medical Devices Directive and respective guidelines of the European Commission (MEDDEV).
2. Notwithstanding all other MEDDEV provisions, the buyer is obliged to inform Trumpf Medical immediately in case of an incident with one of the Trumpf Medical products or if it has indications that a Trumpf Medical product is not safe.
3. The buyer is obliged to guarantee traceability of the product at all times in case of a recall.
4. Installation and mounting of fixed installed products as well as maintenance and warranty services and the hand-over/instruction for use have to be conducted by a Trumpf Medical service engineer or a trained and thus certified partner of Trumpf Medical.
5. The buyer may not remove references to the capacity of Trumpf Medical as manufacturer or other references or instructions for use or serial numbers or distribute products without such references and instructions for use.

XIII Place of Performance, Place of Jurisdiction, and Governing Law
1. The place of performance for buyer’s obligation to make payments shall be Saaßfeld, Germany.
2. Exclusive Place of jurisdiction for any dispute arising under, out of, in connection with or relating to this Agreement shall be Munich, Germany. Trumpf Medical shall also be entitled to file suit at the court competent for buyer’s registered office.

-- End of General Terms and Conditions --