

TRAJAN SCIENTIFIC AMERICAS INC STANDARD TERMS AND CONDITIONS

1. Definitions, Interpretation, Application

1.1. In this document:

Adverse Event means any unexpected or unintended occurrence, disease, injury or result involving or associated with the use of a Research Product, Medical Device or IVD Medical Device, including but not limited to any "adverse event" or "incident", or any term equivalent to "Adverse Event" as defined under Applicable Laws.

Applicable Laws means laws, statutes, regulations, decisions, rulings, sanctions, directives, standards and mandatory codes of conduct in the Receiving Territory or in any other jurisdiction which apply to Customer in the exercise of its rights or performance of its obligations under the Terms and Conditions.

Customer means any person or entity who places an Order, purchases or otherwise receives Products from Trajan and any successor in title to those Products.

Distributor means a Customer that is authorised by Trajan to resell or resupply Products to third parties.

Intended Use means the use for which the Product is intended according to the information provided on the Product labelling or in the Product IFU.

Invoice means the invoice issued by Trajan to Customer for the Customer's purchase of Products described in an Order.

IVD Medical Device has the meaning given to the term 'in vitro diagnostic medical device' (or any equivalent term) under Applicable Laws in the Receiving Territory and for the avoidance of doubt does not include a Research Device.

Kit means a kit or system or procedure pack (or equivalent) which contains a Research Product, Medical Device or IVD Medical Device together with other components packaged and sold together for a specific use or application.

Kit IFU has the meaning given to that term in clause 9.3c).

Medical Device has the meaning given to the term 'medical device' (or any equivalent term) under Applicable Laws and for the avoidance of doubt does not include a Research Device.

Order means any order placed by Customer for Products, including any acceptance by the Customer of a Quote (including any Special Conditions) made by Trajan.

Personal Information has the meaning given in the term 'personal information' or 'personal data' (or any equivalent term) under Applicable Laws.

Products means goods or services sold or otherwise supplied by Trajan under the Terms and Conditions.

Product IFU means any instructions for use of a Product which are supplied by Trajan and set out in any document, video, photograph, label or other format or medium, as amended from time to time by Trajan.

Quote means any tender, quotation or other offer provided by Trajan to Customer for the sale and purchase of the Products.

Receiving Territory means the country or region in which the Customer will receive the Products from Trajan.

Regulatory Approval means any regulatory approval, licence, accreditation, permit, authorisation or consent required under Applicable Laws in connection with the import, export, manufacture, marketing, labelling, sale, supply and/or use of the Products.

Research Product means any Product that is marked or labelled or described as "For Research Use Only" or "RUO" or "Investigational Use Only" or "IUO".

Research Purposes means use for non-therapeutic and non-diagnostic purposes for research use or investigational use only.

Special Conditions means any written terms or conditions included in any Quote provided by Trajan to Customer prior to the placement and acceptance of Customer's Order in accordance with clause 2.

Terms and Conditions means the standard terms and conditions set out in this document, together with any Special Conditions.

Trajan means Trajan Scientific Americas Inc, together with its agents, officers and employees.

1.2. Unless there is express written agreement to the contrary, any Quote provided by Trajan and any Order placed by Customer and accepted by Trajan shall be conclusively deemed to be subject to the Terms and Conditions current as at the date the Order is accepted by Trajan. Any additional or contrary terms offered by Customer including any terms printed on or accompanying the Customer's Order are hereby rejected by Trajan, and such additional or contrary terms shall in no circumstance prevail, unless expressly agreed to by Trajan in writing. In the event of any conflict between any Special Conditions and the remainder of the Terms and Conditions, the Special Conditions shall prevail to the extent of the conflict unless otherwise agreed in writing.

1.3. A reference in the Terms and Conditions to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.4. The current version of the Terms and Conditions (not including any Special Conditions) will be published on the below website and will take effect from the date of publication:
www.trajanscimed.com/pages/terms-and-conditions

2. Acceptance of Orders

2.1 No Order placed by Customer shall be binding on Trajan unless and until Trajan accepts the Order. Acceptance of any Order may be made by Trajan in its discretion by providing written confirmation

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of acceptance or otherwise taking any steps to satisfy the Order. Upon acceptance of an Order, Trajan and Customer enter into a contract on the Terms and Conditions current as at the date of acceptance.

- 2.2 Any Order which has been accepted by Trajan may not be cancelled by Customer except with the agreement in writing of Trajan. Such cancellation may, in Trajan's sole discretion, be subject to payment by Customer of a reasonable cancellation fee to cover Trajan's costs associated with the cancellation.
- 2.3 The supply of Products by Trajan to a Customer is subject to availability of the Products. Trajan reserves the right to suspend or discontinue the supply of any Products. If Trajan is unable to supply all the Products on Customer's Order, the Terms and Conditions will continue to apply to any part of the Order that is supplied by Trajan.
- 2.4 Trajan can cancel an Order at any time in its sole discretion. Trajan will provide Customer with written notice of any such cancellation. Trajan will not be liable to Customer for any costs, losses or damages arising from such cancellation.

3. Price

- 3.1. Quotes shall be valid for 30 days from the date of the Quote unless otherwise agreed by Trajan. Where an Order is based on a valid Quote given by Trajan, the price payable for the Products will be the price as stated in that valid Quote or tender. In any other case, the price payable for the Products will be the current price as at the date of dispatch.
- 3.2. Notwithstanding clause 3.1, Trajan reserves the right, by giving written notice to Customer at any time before delivery, to increase the price of its Products to reflect an increase in cost to Trajan which is due to a factor beyond its control, including without limitation, increases in costs of labour, materials or other costs of manufacture and currency fluctuations.
- 3.3. Tax
 - a) Save where expressly stated to the contrary, all prices quoted by Trajan shall be deemed to be exclusive of sales tax or value added tax, and where applicable or required by law, Trajan shall be entitled to charge such tax on the price at the then prevailing rate.
 - b) The Customer undertakes that where no applicable sales tax or value added tax has been charged by Trajan in respect of any Products supplied because the parties mistakenly regarded the supply of those Products as tax free or exempt, the Customer shall indemnify Trajan for and in respect of the tax subsequently determined to be due in respect of that supply.

4. Payment and Default

- 4.1. Unless otherwise expressly stated on the Quote, Invoice or other document issued by Trajan, the price payable under an Order shall be paid to

Trajan in full without deduction in the currency specified in the Invoice strictly thirty (30) days from the date of the Invoice, notwithstanding that delivery of the Products may not yet have taken place.

- 4.2. Where the purchase price is not paid in full on the due date, Trajan has the right to charge interest on the balance outstanding, calculated from the due date until the date of payment at a rate of 5% per month or, the maximum amount allowed by law, together with Trajan's reasonable costs of collection (including collection agency fees and legal fees). Such interest shall accrue from day to day on the amount of the purchase price remaining unpaid up to the date of payment and shall be payable on demand and, in Trajan's sole discretion, prior to supply of the Products by Trajan.
- 4.3. In addition to its rights under clause 4.2, Trajan has the right to cancel the Order or to suspend supply of Products if Customer does not strictly observe the terms of payment set out in clause 4.1.
- 4.4. Payment of the purchase price shall become immediately due if:
 - a) Customer makes default in any payments;
 - b) Customer is unable to pay its debts as and when they fall due;
 - c) Customer, being an individual, commits an act of bankruptcy or has a controller or trustee appointed in respect of Customer's estate or any part of Customer's property or assets;
 - d) Customer, being a company or other entity, passes a resolution for its winding up or enters into liquidation or has an application for winding up filed against it;
 - e) a receiver, receiver and manager, controller or voluntary administrator is appointed over any part of the property or assets of Customer;
 - f) Trajan reasonably apprehends that any of the events mentioned above is about to occur in relation to Customer; or
 - g) Customer experiences any event having substantially similar effect to any of the events specified above.

5. Delivery Times

- 5.1. Subject to clause 5.2, Trajan will use reasonable endeavours to achieve any delivery times stated by Trajan.
- 5.2. Times stated by Trajan for delivery are estimates only. Trajan does not guarantee that the delivery of the Products will be within the stated delivery times and no liability shall attach to Trajan in the event of delivery being delayed by any circumstances, irrespective of cause or circumstance, including circumstances within or beyond Trajan's control. Any such delay shall not be deemed a breach or repudiation of the contract formed on the Terms and Conditions.
- 5.3. Trajan reserves the right to deliver the Products described in an Order in multiple shipments.

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6. Delivery and Risk

- 6.1. Unless expressly agreed otherwise by Trajan in writing (including on any Quote):
- (a) Customer is responsible for payment of all transportation including insurance costs to deliver the Products to the Customer's delivery address. If Trajan arranges delivery, Trajan will add transportation costs to the Invoice; and
 - (b) Risk in the Products shall pass to Customer upon the loading of the Products on the carrier.
- 6.2. Customer is solely responsible for complying with all Applicable Laws governing Customer's importation of the Products into the Receiving Territory and for all local taxes and for any customs or import duties payable for Products delivered to the Receiving Territory.

7. Title to Products

- 7.1. Irrespective of the time when risk in the Products shall pass, title in the Products shall remain with Trajan until Customer has made payment in full to Trajan of the purchase price and any other indebtedness of the Customer to Trajan.

8. Customer Acknowledgments and Warranties

- 8.1. Customer acknowledges that:
- a) it has selected the Products from a range of products offered by Trajan and Customer is solely responsible and has satisfied itself that the Products meet Customer's requirements;
 - b) unless expressly agreed otherwise in writing by Trajan, Customer has not relied on any information or advice given by or on behalf of Trajan in selecting the Products; and
 - c) Trajan gives no warranty and makes no representation that the Products conform to Applicable Laws which may apply to Customer in the Receiving Territory or any other jurisdiction (except as may otherwise be agreed to in writing by Trajan).
- 8.2. If Customer is an end-user of the Products, Customer warrants that it will, and it will ensure that all individuals under its control will:
- a) use the Products solely for their Intended Use and in conformity with laboratory practices that are consistent with industry practice;
 - b) comply with all Applicable Laws relating to the storage, handling and use of the Products at its own cost and expense (including complying with legal requirements relating to the collection, use, disclosure and other processing of Personal Information);
 - c) follow the Product IFU and any other instructions or guidelines attached to or accompanying the Products or issued by Trajan from time to time;

- d) use the Products in a manner that does not infringe any third party rights (including any patent or other Intellectual Property Rights);
 - e) understand the nature and characteristics of the Products including any hazards, and have sufficient knowledge, training, skills and facilities to appropriately and safely handle, use, store and disposal of the Products; and
 - f) dispose of used Products following Applicable Laws and appropriate biohazard and other safety precautions and processes.
- 8.3. Customer warrants that it will not resell or resupply any Products unless it has obtained Trajan's written agreement that the Customer may act as a Distributor (in nominated territories where applicable). Customer acknowledges and agrees that Trajan may withdraw its appointment of the Customer as a Distributor at any time on written notice.
- 8.4. If Customer is a Distributor, Customer warrants that:
- a) unless otherwise agreed in writing with Trajan, Customer has the non-exclusive right to distribute the Products, and Trajan may appoint other distributors, or Trajan may market and supply the Products itself, in territories where the Customer operates;
 - b) where Trajan has directed Customer that a Product cannot be distributed or sold into a specific country, Customer will comply with such direction from Trajan;
 - c) Customer will sell or supply the Products to third parties on terms which require the third parties to comply with the obligations imposed on the Customer under these Terms and Conditions (other than obligations which can reasonably only apply to Customer);
 - d) Customer must only use marketing materials provided or otherwise approved by Trajan to market and sell the Products;
 - e) Customer must not make any representations about the Products other than representations included in Trajan's documentation in relation to the Products (including in marketing materials provided or approved by Trajan), or as otherwise approved by Trajan in writing;
 - f) Customer will comply with all Applicable Laws relating to the marketing, sale and supply of the Products; and
 - g) on request, Customer will provide Trajan with information, in such form as Trajan may reasonably require, regarding Distributor's supply of the Products over a specified period and such other information as Trajan may reasonably require for the purposes of managing its authorised distributors (such information to be provided to Trajan on a confidential basis where appropriate).

9. Research Products, Medical Devices and IVD Medical Devices

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- 9.1. Where Customer has purchased or received a Research Product, Customer acknowledges and agrees:
- a) the Research Product does not have Regulatory Approval as a Medical Device or IVD Medical Device (as applicable) in the Receiving Territory;
 - b) Trajan is supplying the Research Product to Customer solely for its Intended Use and for Research Purposes only;
 - c) Customer will use the Research Product solely for Research Purposes and for no other purpose (whether commercial or non-commercial);
 - d) Customer is solely responsible for verifying and validating that the Research Product is suitable for use for the Customer's specific Research Purposes and for all data and results generated in connection with use of the Research Product; and
 - e) Trajan makes no representations and gives no warranties regarding the performance of the Research Product for any specific Research Purpose.
- 9.2. Where Customer has purchased or received a Medical Device or IVD Medical Device, Customer acknowledges and agrees:
- a) Trajan is supplying the Medical Device or IVD Medical Device for its Intended Use only;
 - b) Customer is solely responsible for verifying and validating the use of the Medical Device or IVD Medical Device (as applicable) for Customer's specific purpose or application (including any clinical, therapeutic or diagnostic use) and for all data and results generated in connection with use of the Medical Device or IVD Medical Device; and
 - c) Trajan makes no representations and gives no warranties regarding the performance of the Medical Device or IVD Medical Device (as applicable) for any specific purpose or application including any specific clinical, therapeutic or diagnostic use; and
 - d) Customer will obtain Trajan's prior written agreement before seeking or obtaining any Regulatory Approval in respect of a Medical Device or IVD Medical Device in the Receiving Territory.
- 9.3. Where Customer resells or resupplies the Research Product, Medical Device or IVD Medical Device as part of a Kit, Customer agrees that:
- a) Customer is solely responsible and liable for (and to the extent permitted by law, Trajan shall have no liability in relation to):
 - (i) Customer's resale or resupply of the Kit;
 - (ii) the inclusion of items or components in the Kit which have not been supplied by Trajan and all information or instructions relating to such items or components; and
 - (iii) any services provided by Customer in connection with the supply of the Kit;
 - b) Customer must ensure that the resale or resupply of the Kit complies with all Applicable Laws;
 - c) Customer may modify or supplement the information set out in the Product IFU to create Customer's own instructions for a Kit (a "**Kit IFU**") which is supplied to end users who receive or use a Kit, provided that:
 - (i) Customer is solely responsible and liable for the Kit IFU (and to the extent permitted by law, Trajan shall have no liability in relation to the Kit IFU) regardless of whether Trajan has provided input or otherwise contributed to the development of the Kit IFU;
 - (ii) Customer is responsible for any translations of the Product IFU (or any part thereof) into languages other than the language versions supplied by Trajan; and
 - (iii) Customer must ensure that the Kit IFU complies with all Applicable Laws and that all required approvals have been obtained to the use of the Kit IFU (such as Institutional Review Board (IRB) or ethical approval for the use of the Kit IFU in a clinical study where relevant).
- 9.4. On request from Trajan, Customer will provide accurate and comprehensive information regarding how Customer used the Research Product, Medical Device or IVD Medical Device (as applicable), including information required for Trajan to respond to any requests from any regulatory authority or for Trajan to otherwise be satisfied that Customer has used such Products in accordance with the Terms and Conditions. Where reasonable and appropriate, such information may be provided to Trajan on a confidential basis.
- 9.5. Customer must immediately notify Trajan in writing of any actual or suspected Adverse Events related directly or indirectly to a Research Product, Medical Device or IVD Medical Device or the use of a Research Product, Medical Device or IVD Medical Device supplied by Trajan (whether or not the Adverse Event has been or requires reporting to a regulatory authority).
- 10. Complaints & Recall**
- 10.1. Customer must keep Trajan informed of all end user complaints concerning the Products and must comply with any directions of Trajan in any issues, proceedings or negotiations relating to such complaints.
- 10.2. Trajan may in its discretion recall any Products already sold to Customer (whether for a refund, credit or replacement of the Products) and Customer must immediately cease use of such

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Products and comply with any recall notice issued by Trajan. On request, Customer will take reasonable steps to assist Trajan with the recall of Products that Customer has sold or supplied to third parties.

11. Product Warranty

- 11.1. Trajan warrants that, subject to the remainder of this clause 11, Products manufactured by Trajan will be free from defects caused by manufacture until the expiration date stated on the Product label or Certificate of Conformance (as applicable), or if no expiration date is stated, for a period of 45 days from the date of shipment by Trajan.
- 11.2. The warranty contained in clause 11.1 shall not apply in the following circumstances:
- In respect of loss or damage caused by the use of the Products other than strictly in accordance with the terms of use of the Products, including without limitation loss or damage caused as a result of a failure to use the Products in accordance with Trajan's instructions (including the Product IFU), or caused by rough or negligent treatment or handling of the Products;
 - in respect of loss or damage for Products that are not stored or shipped in accordance with any storage and shipping instructions provided by Trajan; or
 - in respect of loss or damage caused by an act of God or any other cause not within Trajan's control or otherwise not related to the Products.
- 11.3. Any minor defects (such as scratches, spots, pressure marks) shall not entitle Customer to any warranty claim. Commercial tolerances with respect to dimensions, finish, colour and weight of Products or minor variations from the data stated in Trajan's documentation shall neither entitle Customer to any warranty claim nor to a rejection of the Products delivered.
- 11.4. Customer agrees to inspect all Products on receipt. Customer acknowledges that if it does not notify Trajan or return the Product in accordance with clause 11.5 or 11.6 (as applicable), the Products will be taken to have been supplied without defect and Customer waives any right to claim under the applicable warranty with respect to such Products.
- 11.5. To make a warranty claim under clause 11.1, Customer must notify Trajan in writing within fourteen (14) days of becoming aware of the defect, and Customer must return the Product to Trajan within 30 days of providing such notification (subject to clause 11.6).
- 11.6. Customer must not return any Product which has been used to collect or otherwise come into contact with any biological sample unless otherwise directed to do so by Trajan. If Customer wishes to make a warranty claim in respect of such Product, Customer will notify Trajan and provide all information as may be requested by Trajan in relation to the warranty

claim and on request, allow Trajan to inspect such Product at a mutually agreed time.

- 11.7. To the fullest extent permitted under Applicable Law, Trajan's liability for breach of the warranty contained in clause 11.1 or any guarantee, condition or warranty implied by law that cannot be excluded, shall be limited to one of the following, at the sole discretion of Trajan:
- repair or replacement of the Products;
 - payment of the cost of repairing or replacing the Products or acquiring equivalent Products; or
 - refund of the purchase price paid by Customer.
- 11.8. To the fullest extent permitted under Applicable Law, in the case of Products not manufactured by Trajan, Trajan's warranty shall be limited to the warranties implied by law and any further warranty contained in any manufacturer's warranty for those Products.

12. Claims

No claims will be recognised in respect of any mistake or shortage or over supply of Products after seven (7) days from the delivery date.

13. Return of products

Products are not supplied on a sale or return basis. Subject to clause 11 dealing with warranty claims, at Trajan's sole discretion, Trajan may accept the return of Products supplied, subject to the following conditions:

- where a Product or any associated documentation issued by Trajan is marked "non-returnable", the Product is non-returnable;
- custom Products made to Customer's specifications cannot be returned;
- Products must be returned to Trajan or a nominated agent in good order and condition, be resaleable and be returned within seven (7) days of the date of delivery;
- before returning Products, Customer must first obtain a Return Authorisation Number (RAN) from Trajan;
- when returning Products, Customer shall quote the Invoice number, RAN and delivery date;
- Customer shall pay freight charges to return the Products to Trajan's return address;
- Trajan may require Customer to pay a restocking fee of an amount determined by Trajan in its sole discretion; and
- Trajan may determine whether to offer a refund or credit for any return of Products.

14. Limitation of Liability

- 14.1. TRAJAN'S TOTAL LIABILITY FOR ANY AND ALL CLAIMS, LOSSES OR DAMAGES OF ANY KIND, HOWSOEVER CAUSED (WHETHER DUE TO TRAJAN'S NEGLIGENCE, BREACH OF CONTRACT, BREACH OF LAW OR

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EQUITY OR OTHERWISE) IN CONNECTION WITH THE SALE OR SUPPLY OF A PRODUCT UNDER THE TERMS AND CONDITIONS SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER IN RESPECT OF THE RELEVANT PRODUCT.

14.2. TRAJAN SHALL NOT BE LIABLE (WHETHER DUE TO TRAJAN'S NEGLIGENCE, BREACH OF CONTRACT, BREACH OF LAW OR EQUITY OR OTHERWISE) FOR LOSS OF PROFITS OR SPECIAL, CONSEQUENTIAL OR INDIRECT LOSS OR DAMAGE OR THIRD PARTY CLAIMS.

14.3. SAVE FOR THE EXPRESS CONDITIONS AND WARRANTIES CONTAINED HEREIN, ALL OTHER CONDITIONS AND WARRANTIES (WHETHER AS TO THE QUALITY, MERCHANTABILITY, FITNESS FOR PURPOSE OR ANY OTHER MATTER) EXPRESSED OR IMPLIED BY STATUTE, COMMON LAW, EQUITY, TRADE CUSTOM, USAGE OR OTHERWISE ARE HEREBY EXPRESSLY EXCLUDED PROVIDED THAT NOTHING IN THE TERMS AND CONDITIONS SHALL EXCLUDE OR LIMIT THE LIABILITY OF ANY BREACH OF A TERM OR CONDITION IMPLIED BY LAW, THE EXCLUSION OR LIMITATION OF WHICH IS NOT PERMITTED.

15. Intellectual Property Rights

15.1. Customer acknowledges Trajan's ownership or licence to use the patents, trade marks, copyright, designs and any other intellectual property rights (whether registered or unregistered) in or relating to the Products manufactured or supplied by Trajan including any improvements or modifications to such Products made or suggested by Customer or any third party (the "Trajan IP"). On request Customer will take reasonable steps to give effect to such ownership of Trajan IP.

15.2. Customer acknowledges that, other than the limited licensing and sub-licensing rights as are needed in connection with the use, marketing, resale and resupply (as relevant) of the Products under the Terms and Conditions, Customer will not acquire any rights in respect of the Trajan IP unless otherwise agreed in writing.

15.3. Customer warrants and agrees that it and its agents, employees, contractors and affiliates: (a) will not contest Trajan's or Trajan's licensor's ownership of any Trajan IP; (b) will not infringe any Trajan IP; and (c) will promptly notify Trajan of any actual or alleged infringement of the Trajan IP of which it becomes aware.

16. Indemnity

Customer indemnifies and holds Trajan harmless from and against any and all claims, demands, liabilities, losses, damages, fines, costs and expenses (including legal costs and expenses) suffered or incurred by Trajan, in any way relating to:

a) any breach of the Terms and Conditions;

- b) any failure by Customer to comply with industry practice or Applicable Laws in the storage, handling or use of the Products;
- c) any violation or infringement of any patent or other proprietary rights of third parties by Customer in the handling or use of the Products; or
- d) any use or misuse or resale or resupply of the Products by Customer.

17. Modifications to Products

17.1. Trajan reserves the right, without prior notice to Customer, to modify or change the design or specifications of any Product.

17.2. Unless otherwise agreed in writing with Trajan, Customer must not:

- (a) modify, reverse engineer, alter, decompile, disassemble or perform any activities to try to determine the structure, chemical composition, source code or other makeup of the Products;
- (b) modify, remove, or obscure the labels placed on the Products by Trajan;
- (c) modify or remove the Instructions For Use or any other written instructions or other documentation accompanying the Products (subject to clause 9.3c) above in relation to Kits).

17.3. Where Trajan agrees to make any modifications, alterations or adjustments to any Product as a result of or in reliance upon the information or instructions provided by Customer, Customer indemnifies and holds Trajan harmless from and against any and all claims, demands, liabilities, losses, damages, fines, costs and expenses (including but not limited to legal costs and expenses) suffered or incurred by Trajan howsoever arising from any reliance by Trajan on the information or instructions provided by Customer including as a result of any claim by a third party alleging infringement of its intellectual property rights.

18. Privacy and Data Protection

In relation to any Personal Information which is obtained by Trajan in connection with its supply of the Products to Customer, Trajan will collect, process, use, disclose and store that Personal Information in accordance with Trajan's Privacy and Security Policy as may be amended from time to time and published on the Trajan website: www.trajanscimed.com/pages/privacy-and-security.

19. Force Majeure

19.1. Trajan or Customer will not be liable for any failure to perform because any act of God, strike, lockout or other interference with work, war (declared or undeclared), accident, blockade, disturbance, lightning, fire, earthquake, storm, flood, explosion, pandemic, epidemic, governmental restraint, expropriation, prohibition, intervention, direction or embargo, unavailability or delay in availability of plant,

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equipment, materials or transport, inability or delay in obtaining governmental approvals, consents, permits, licenses, authorities or allocations, and any other cause which is not reasonably within the control of the party affected (**Force Majeure Event**).

- 19.2. Upon giving written notice to the other party, a party affected by a Force Majeure Event shall be released without any liability on its part from the performance of its obligations under the Terms and Conditions, except for the obligation to pay any amounts due and owing or becoming due and owing hereunder, but only to the extent and only for the period that its performance of such obligations is prevented by the Force Majeure Event. Such notice shall include a description of the nature of the Force Majeure Event, its cause and possible consequences. The party claiming a Force Majeure Event shall promptly notify the other party of the termination of such event.
- 19.3. During the period that the performance by one of the parties has been suspended by reason of the Force Majeure Event, the other party may likewise suspend the performance of all or part of its obligations hereunder to the extent that such suspension is commercially reasonable.

and the parties submit to the exclusive jurisdiction of the Courts of Texas in the United States of America.

20. General

20.1. No Waiver

A failure or delay by Trajan in insisting upon performance of any term, warranty or condition shall not be deemed a waiver. A waiver by Trajan of any right or remedy under the Terms and Conditions is not effective unless such waiver is in writing and signed by an authorised representative of Trajan. A waiver in respect of a breach of any term, warranty or condition shall not be deemed a waiver of any subsequent breach of any term, warranty or condition.

20.2. Severance

If any provisions of the Terms and Conditions shall become void or unenforceable for any reason, such void or unenforceable provisions or part thereof shall be deleted, and the remaining provisions shall continue in full force and effect.

20.3. Assignment

Customer may not assign any of its rights or subcontract or delegate any of its obligations under the Terms and Conditions without the prior consent of Trajan. Any such subcontracting or delegation will not relieve Customer of its obligations under the Terms and Conditions.

20.4. Notices

Any notice to be served under the Terms and Conditions shall be made in writing and either delivered personally or sent by registered post to the latest notified address of the other party and shall be deemed served upon delivery where delivered personally or when recorded by the delivery agent if sent by registered post.

21. Governing Law

The Terms and Conditions are subject to the laws of Texas in the United States of America