

## ZOLL QUOTATION GENERAL TERMS & CONDITIONS

**1. ACCEPTANCE.** This Quotation constitutes an offer by ZOLL Medical Canada Inc., a subsidiary of ZOLL Medical Corporation, to sell to the Customer the equipment (including a sublicense to use certain software) listed in this Quotation and described in the specifications either attached to or referred to in this Quotation (hereinafter referred to as Equipment). Any acceptance of such offer is expressly limited to the terms of this Quotation, including these General Terms and Conditions. Acceptance shall be so limited to this Quotation notwithstanding (i) any conflicting written or oral representations made by ZOLL Medical Canada Inc. or any agent or employee of ZOLL Medical Canada Inc. or (ii) receipt or acknowledgement by ZOLL Medical Canada Inc. of any purchase order, specification, or other document issued by the Customer. Any such document shall be wholly inapplicable to any sale made pursuant to this Quotation, and shall not be binding in any way on ZOLL Medical Canada Inc.

Acceptance of this Quotation by the Customer shall create an agreement between ZOLL Medical Canada Inc. and the Customer (along with the terms contained in the purchase order, hereinafter referred to as the "Contract", the terms and conditions of which are expressly limited to the provisions of this Quotation including these Terms and Conditions). No waiver, change or modification of any of the provisions of this Quotation or the Contract shall be binding on ZOLL Medical Canada Inc. unless such waiver, change or modification (i) is made in writing (ii) expressly states that it is a waiver, change or modification of this Quotation or the Contract and (iii) is signed by an authorized representative of ZOLL Medical Canada Inc.

**2. DELIVERY AND RISK OF LOSS.** Unless otherwise stated, all deliveries shall be F.O.B. ZOLL Medical Canada Inc.'s facility. Risk of loss or damage to the Equipment shall pass to the Customer upon delivery of the Equipment to the carrier.

**3. TERMS OF PAYMENT.** Unless otherwise stated in its Quotation payment by Customer is due thirty (30) days after the ship date appearing on the applicable ZOLL Medical Canada Inc. invoice. Any amounts payable hereunder which remain unpaid after the date shall be subject to a late charge equal to 1.5% per month (18% per annum) from the due date until such amount is paid.

**4. CREDIT APPROVAL.** All shipments and deliveries shall at all times be subject to the approval of credit by ZOLL Medical Canada Inc. ZOLL Medical Canada Inc. may at any time decline to make any shipment or delivery except upon receipt of payment or security or upon terms regarding credit or security satisfactory to ZOLL Medical Canada Inc.

**5. TAXES.** The prices quoted in ZOLL Medical Canada Inc.'s Quotation do not include sales use, excise, or other similar taxes or any duties or customs charges. The Customer shall pay in addition to the prices quoted the amount of any present or future goods and services, harmonized sales, value added, sales, excise or other similar tax or customs duty or charge applicable to the sale or use of the Equipment sold hereunder (except any income or corporation taxes imposed on and directly payable by ZOLL Medical Canada Inc.). In lieu thereof the Customer may provide ZOLL Medical Canada Inc. with a tax exemption certificate acceptable to the taxing authorities.

**6. WARRANTY.** (a) ZOLL Medical Canada Inc. warrants to the Customer that from the earlier of the date of installation or thirty (30) days after the date of shipment from ZOLL Medical Canada Inc.'s facility, the Equipment (other than accessories and electrodes) will be free from defects in material and workmanship under normal use and service for the period noted on the reverse side. Accessories and electrodes shall be warranted for ninety (90) days from the date of shipment. During such period ZOLL Medical Canada Inc. will at no charge to the Customer either repair or replace (at ZOLL Medical Canada Inc.'s sole option) any part of the Equipment found by ZOLL Medical Canada Inc. to be defective in material or workmanship. If ZOLL Medical Canada Inc.'s inspection detects no defects in material or workmanship, ZOLL Medical Canada Inc.'s regular service charges shall apply. (b) ZOLL Medical Canada Inc. shall not be responsible for any Equipment defect, failure of the Equipment to perform any specified function, or any other nonconformance of the Equipment caused by or attributable to (i) any modification of the Equipment by the Customer, unless such modification is made with the prior written approval of ZOLL Medical Canada Inc.; (ii) the use of the Equipment with any associated or complementary equipment accessory or software not specified by ZOLL Medical Canada Inc., or (iii) any misuse or abuse of the Equipment; (iv) exposure of the Equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL Medical Canada Inc., or (v) installation or wiring of the Equipment other than in accordance with ZOLL Medical Canada Inc.'s instructions. (c) Warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, cables and accessories. (d) The foregoing warranty does not apply to software included as part of the Equipment (including software embodied in read-only memory known as "firmware"). (e) The foregoing warranty constitutes the exclusive remedy of the Customer and the exclusive liability of ZOLL Medical Canada Inc. for any breach of any warranty related to the Equipment supplied hereunder. The Customer acknowledges that ZOLL Medical Canada Inc. has made no representations, warranties, terms, conditions, understandings or collateral agreements, express or implied, statutory or otherwise, with respect to the title, merchantability, condition, description, fitness for purpose, quality, quantity or any other thing, affecting or in respect of any other matter or thing whatsoever except as expressly stated herein, and that any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in Ontario or in any other jurisdiction do not apply hereto and are hereby waived by the Customer.

**7. SOFTWARE LICENSE.** (a) All software (the "Software" which term shall include firmware) included as part of the Equipment is licensed to Customer pursuant to a nonexclusive limited sublicense on the terms hereinafter set forth. (b) Customer may not copy, distribute, modify, translate or adapt the Software, and may not disassemble or reverse compile the Software, or seek in any manner to discover, disclose or use any proprietary algorithms, techniques or other confidential information contained therein, (c) all rights in the Software remain the product of ZOLL Medical Corporation, and Customer shall have no right or interest therein except as expressly provided herein, (d) Customer's right to use the Software may be terminated by ZOLL Medical Corporation or ZOLL Medical Canada Inc. in the event of any failure to comply with terms of this quotation, (e) Customer may transfer the license conferred hereby only in connection with a transfer of the Equipment and may not retain any copies of the Software following such transfer, (f) ZOLL Medical Canada Inc. warrants that the read-only memory or other media on which the Software is recorded will be free from defects in materials and workmanship for the period and on terms set forth in section 6, and (g) Customer understands that the Software is a complex and sophisticated software product and no assurance can be given that operation of the Software will be uninterrupted or error-free, or that the Software will meet Customer's requirements. Customer's exclusive remedy for any breach of warranty or defect relating to the Software shall be the repair or replacement of any defective read-only memory or other media so that it correctly reproduces the Software. This License applies only to ZOLL Medical Corporation Software.

**8. DELAYS IN DELIVERY.** ZOLL Medical Canada Inc. shall not be liable for any delay in the delivery of any part of the Equipment if such delay is due to any cause beyond the control of ZOLL Medical Canada Inc. including, but not limited to acts of God, fires, epidemics, floods, riots, wars, sabotage, labor disputes, governmental actions, inability to obtain materials, components, manufacturing facilities or transportation or any other cause beyond the control of ZOLL Medical Canada Inc. In addition ZOLL Medical Canada Inc. shall not be liable for any delay in delivery caused by failure of the Customer to provide any necessary information in a timely manner. In the event of any such delay, the date of shipment or performance hereunder shall be extended to the period equal to the time lost by reason of such delay. In the event of such delay ZOLL Medical Canada Inc. may allocate available Equipment among its Customers on any reasonable and equitable basis. The delivery dates set forth in this Quotation are approximate only and ZOLL Medical Canada Inc. shall not be liable for, nor shall the Contract be breached by, any delivery by ZOLL Medical Canada Inc. within a reasonable time after such dates.

**9. LIMITATIONS OF LIABILITY.** IN NO EVENT SHALL ZOLL MEDICAL CANADA INC. BE LIABLE FOR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ZOLL MEDICAL CANADA INC.'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS QUOTATION OR THE CONTRACT OR THE FURNISHING, PERFORMANCE, OR USE OF ANY EQUIPMENT OR SOFTWARE SOLD HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, THE NEGLIGENCE OF ZOLL MEDICAL CANADA INC. OR OTHERWISE.

**10. PATENT INDEMNITY.** ZOLL Medical Corporation shall at its own expense defend any suit that may be instituted against the Customer for alleged infringement of any United States patents or copyrights related to the parts of the Equipment or the Software manufactured by ZOLL Medical Corporation, provided that (i) such alleged infringement consists only in the use of such Equipment or the Software by itself and not as a part of or in combination with any other devices or parts, (ii) the Customer gives ZOLL Medical Corporation immediate notice in writing of any such suit and permits ZOLL Medical Corporation through counsel of its choice, to answer the charge of infringement and defend such suit, and (iii) the Customer gives ZOLL Medical Corporation all requested information, assistance and authority at ZOLL Medical Corporation's expense, to enable ZOLL Medical Corporation to defend such suit.

In the case of a final award of damages for infringement in any such suit, ZOLL Medical Corporation will pay such award, but it shall not be responsible for any settlement made without its written consent.

Section 10 states the total responsibility and liabilities of ZOLL Medical Corporation and ZOLL Medical Canada Inc., and the Customer's sole remedy for any actual or alleged infringement of any patent by the Equipment or the Software or any part thereof provided hereunder. In no event shall ZOLL Medical Corporation or ZOLL Medical Canada Inc. be liable for any indirect, special, or consequential damages resulting from any such infringement.

**11. CLAIMS FOR SHORTAGE.** Each shipment of Equipment shall be promptly examined by the Customer upon receipt thereof. The Customer shall inform ZOLL Medical Canada Inc. of any shortage in any shipment within ten (10) days of receipt of Equipment. If no such shortage is reported within ten (10) day period, the shipment shall be conclusively deemed to have been complete.

**12. RETURNS AND CANCELLATION.** (a) The Customer shall obtain authorization from ZOLL Medical Canada Inc. prior to returning any of the Equipment. (b) If the Customer receives authorization from ZOLL Medical Canada Inc. to return a product for credit, the Customer shall be subject to a restocking charge of twenty percent (20%) of the original list purchase price, but not less than \$50.00 per product. (c) Any such change in delivery caused by the Customer that causes a delivery date greater than six (6) months from the Customer's original order date shall constitute a new order for the affected Equipment in determining the appropriate list price.

**13. APPLICABLE LAW.** This Quotation and the Contract shall be governed by and interpreted in accordance with the substantive laws of the Province of Ontario and the federal laws of Canada applicable therein without regard to any choice of law provisions thereof.

**14. COMPLIANCE WITH LAWS.** (a) ZOLL Medical Canada Inc. represents that all goods and services delivered pursuant to the Contract will be produced and supplied in compliance with all applicable provincial and federal laws and regulations, including the requirements of applicable employment standards legislation. (b) The Customer shall be responsible for compliance with any federal, provincial and local laws and regulations applicable to the installation or use of the Equipment furnished hereunder, and will obtain any permits required for such installation and use.

**15. NON-WAIVER OF DEFAULT.** In the event of any default by the Customer, ZOLL Medical Canada Inc. may decline to make further shipments without in any way affecting its rights under such order. If, despite any default by Customer, ZOLL Medical Canada Inc. elects to continue to make shipments its action shall not constitute a waiver of any default by the Customer or in any way affect ZOLL Medical Canada Inc.'s legal remedies regarding any such default. No claim or right arising out of a breach of the Agreement by the Customer can be discharged in whole or in part by waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by ZOLL Medical Canada Inc.

**16. ASSIGNMENT.** This Quotation, and the Contract, may not be assigned by the Customer without the prior written consent of ZOLL Medical Canada Inc., and any assignment without such consent shall be null and void.

**17. TITLE TO PRODUCTS.** Subject to Section 7, title to and right of possession of the products sold hereunder shall remain with ZOLL Medical Canada Inc. until ZOLL Medical Canada Inc. delivers the Equipment to the carrier and Customer agrees to do all acts necessary to perfect and maintain such right and title in ZOLL Medical Canada Inc. Failure of the Customer to pay the purchase price for any product when due shall give ZOLL Medical Canada Inc. the right, without liability, to repossess the Equipment, with or without notice, and to avail itself of any remedy provided by law.

**18. VALIDITY OF QUOTATION.** This Quotation shall be valid and subject to acceptance by the Customer, in accordance with the terms of Section 1 hereof for the period set forth on the face hereof. After such period, the acceptance of this Quotation shall not be binding upon ZOLL Medical Canada Inc. and shall not create a contract, unless such acceptance is acknowledged and accepted by ZOLL Medical Canada Inc. by a writing signed by an authorized representative of ZOLL Medical Canada Inc.

**19. GENERAL.** This constitutes the entire agreement between Customer and ZOLL Medical Canada Inc. with respect to the purchase and sale of the Equipment described on the face hereof, and only representations or statements contained herein shall be binding upon ZOLL Medical Canada Inc. as a warranty or otherwise. Acceptance or acquiescence in the course of performance rendered pursuant hereto shall not be relevant to determine the meaning of this writing even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. No addition to or modification of any of the terms and conditions specified herein shall be binding upon ZOLL Medical Canada Inc. unless made in writing and signed by a duly authorized representative of ZOLL Medical Canada Inc. The terms and conditions specified shall prevail notwithstanding any variance from the terms and conditions of any order or other form submitted by Customer for the Equipment set forth on the face of this Agreement. To the extent that this writing may be treated as an acceptance of Customer's prior offer, such acceptance is expressly made conditional on assent by Customer to the terms hereof, and, without limitation, acceptance of the goods by Customer to the terms hereof, and, without limitation, acceptance of the goods by Customer shall constitute such assent. All cancellations and reschedules require a minimum of thirty (30) days notice.

**20. LANGUAGE.** The parties hereto have requested that these terms and conditions be drawn up in the English language. *Les parties aux présentes ont exigé que les présents termes et conditions soient rédigés en anglais.*

**ZOLL Medical Canada Inc.**