We draw Your attention to clause 10.11 of these Conditions and recommend that You review this clause prior to making any payment to the Company.

1 INTERPRETATION

1.1 Definitions

"Business Day" a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

"Company" Sunrise Medical Limited (registered in England and Wales with company number 05370240) and any of its subsidiary companies as appropriate.

"Conditions" the terms and conditions set out in this document as amended from time to time in accordance with clause 18.5.

"Configured Goods" means goods that are unique to You and have been manufactured to meet Your requirements, including prescribed wheelchairs.

"Contract" the contract between the Company and Your for the sale and purchase of the Goods in accordance with these Conditions.

"Goods" (or any part of them) set out in the Order.

"Order" Your order for the Goods, as set out on Your purchase order form, or if relevant, Your order for the Goods placed through the Site.

"Privacy Policy" the privacy policy published at www.sunrisemedical.co.uk/privacy-policy-gb as updated and amended from time to time.

"Site" any website published on the World Wide Web for or by the Company.

"Specification" any specification for the Goods agreed in writing by You and the Company.

"You" Your person or firm who purchases the Goods from the Company as stated on the Order.

1.2 A reference to a statute or statutory provision is a reference to that statute or statutory provision as amended or re-enacted.

1.3 Any reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.4 Any phrase included in the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.5 A reference to writing or written includes faxes and emails.

2 U.K CONSUMER SALES – CLAUSE ONLY APPLIES TO CONSUMER SALES

2.1 These Conditions do not affect Your statutory rights.

2.2 If there is any conflict between this Clause 2 and the Conditions then this Clause 2 shall take precedence.

2.3 Where the Contract is for the sale of Goods to a consumer that is due to a supply to individual disabled persons.

2.4 You shall not be entitled to return the Goods for any reason except under the warranty in stock of ordinary or revised Goods or statutory rights.

2.5 The Company may require a signed declaration of disability from You if the Goods supplied are exempt from VAT or other taxes due to a supply to individual disabled persons.

2.6 If a defect in the Goods becomes apparent within the warranty period which shall commence from the delivery date by the Company and ends 12 months following the delivery of the Goods ("Warranty Period") then the Company either itself or by an authorised dealer or repairer will effect any necessary repair or replacement of the free of charge provided that:

2.6.1 the Goods, or any part repaired or replaced during the Warranty Period is warranted for the duration of such period;

2.6.2 the described repairer and the Company for the repairs and service will be notified by the Company to You or the Company can provide details of another authorised repairer upon request;

2.6.3 You must notify the designated repairer immediately upon a defect occurring giving full details of the defect and no use must be made of the Goods; and

2.6.4 no alteration or unauthorised repairs made to the Goods prior to inspection by the designated repairer;

2.6.5 consumable items are not covered by the warranty unless such items can be proven to have suffered undue wear as a direct result of an original manufacturing defect. Such items include, without limitation lubricants, motor brushes, upholstery, tyres, inner tubes, brakes and similar parts. Batteries will only be covered by the warranty where they have been charged and maintained fully in accordance with the manufacturer’s recommendations; and

2.6.6 the warranty will not cover Goods which require repair or replacement as a result of:-

2.6.6.1 Goods or parts not being maintained in accordance with manufacturers recommendations and where the specified original equipment parts have not been used;

2.6.6.2 Goods or parts damaged by neglect, accident or incorrect use;

2.6.6.3 Goods or parts having been altered from the manufacturers specification or repairs attempted by anyone other than the designated repairer;

2.6.6.4 wear and tear.

3 BASIS OF CONTRACT

3.1 These Conditions apply to the Contract to the exclusion of any other terms to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3.2 The Order constitutes an offer by You to purchase the Goods in accordance with these Conditions. You are responsible for ensuring that the terms of the Order are complete and accurate.

3.3 The Order shall only be deemed to be accepted when the Company issues a written acceptance of the Order, at which point the Contract shall come into existence.

3.4 If You and the Company accept the order through the Site, You will receive an acknowledgement of Your order which constitutes acceptance of the Order and in relation to Orders for Configured Goods, it is Your responsibility to check that the Company’s order acknowledgement is correct. Provided you do not inform us within 24 hours that the Company’s order acknowledgement does not accurately reflect Your Order for Configured Goods, You will receive a separate confirmation email, at which point the Contract shall come into existence.

3.5 If the Company is unable to supply any Goods, for example because such Goods are no longer available in ordinary or revised specifications, the Company will inform You of this by email and the Order will not be accepted. Where We have paid for the Goods, the Company will refund the full amount paid.

3.6 A quotation for the Goods given by the Company shall not constitute an offer. A quotation for the Goods given by the Company within 30 Business Days from its date of issue and may be withdrawn by the Company within such period at any time upon written or oral notice.

4 GOODS

4.1 The Goods shall be as described in the Specification. The Company may warrant the exact specifications of Goods if requested by You in writing but to be valid such warranty must be agreed by the Company and set out in the Company’s order confirmation email.

4.2 The Company reserves the right to amend the Specification without prior notice if it is not a material change and if required by any applicable statutory or regulatory requirements.

4.3 Any samples, drawings, figures, speeds, measurements, capacities, technical information and data, descriptive matter or advertising produced by the Company and any descriptions or illustrations contained in the Company’s catalogues or brochures or on any website published on the World Wide Web are open for business. Giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract.

4.4 The Company will accept cancellation by You if all costs and expenses incurred by the Company up to the time of cancellation and all loss of profits or other direct or indirect loss or damage caused by the Company and which are attributable to the Goods or any other alteration or unauthorised repairs made to the Goods prior to inspection by the designated repairer;

4.5 Where powered mobility vehicles are sold by You to a consumer You shall adhere to the British Healthcare Trades Association Code of Practice and Standard Warranty Conditions as supplied to You from time to time by the Company.

4.6 Where the Goods are purchased by You for onward resale it is Your obligation to ensure transparency with Your customer in relation to any pricing rebate which may be applicable.

4.7 In the case of Goods which are not manufactured by the Company (unless otherwise agreed) then the Company does not give any assurance or guarantee that Your use or Your onward sale of the Goods will not infringe any third party intellectual property rights.

4.8 All drawings, confidential information and other information supplied by the Company to You are supplied on the express understanding that copyright is reserved to the Company and that You will not use it without the written consent of the Company to either give away, loan exhibit or sell any such drawings, documents, records or other information or extracts thereof.

4.9 In relation to all sales of Goods and any onward sale of the Goods, You shall comply with all applicable laws, enactments, regulations, regulatory policies, guidelines and industry codes and shall take all steps necessary and use reasonable skill and care in all other approvals, permits and authorities as are required from time to time to perform Your obligations under or in connection with Your use or onward sale of the Goods.

5 DELIVERY

5.1 The Company shall endeavour to deliver the Goods to the location set out in the Order or such other location as the parties may agree ("Delivery Location").

5.2 Delivery is complete upon completion of unloading of the Goods at the Delivery Location.

5.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence unless otherwise agreed. The Company is not liable to cancel the Order or to claim damages if the Company is not able to deliver on the delivery date.

5.4 The Company shall not be liable for any delay in delivery of the Goods that is caused by Your failure to provide the Company with adequate delivery instructions, alterations made to the Order or any other instructions that are relevant to the supply of the Goods.

5.5 The Company shall endeavour to comply with reasonable requests of the customer in stock of ordinary or revised specifications, but shall be under no obligation to do so and may charge You for any extra charges or costs incurred in complying with the revised instructions.

5.6 You must ensure adequate access for the Company to the Delivery Location. Delivery shall only be made if access and services are available which are necessary to enable the Company to deliver the Goods.
6.1 You shall have no claim for shortages or defects apparent on visual inspection unless:  

6.1.1 You inspect the Goods within three (3) working days of delivery;  

6.1.2 a written complaint is made by You to the Company and to the carrier within fourteen (14) days of receipt of the Goods or such shorter normal or shorter period as the carrier conditions (if applicable) require specifying the shortages or defects; or  

6.1.3 the Company is given an opportunity to inspect the Goods and to investigate any complaint before any use of or alteration of the Goods has been made.  

6.2 If a complaint is not made to the Company as required by this clause then the Goods shall be deemed to be in all respects in accordance with the Contract and You shall be bound to pay for the same accordingly.  

6.3 Unless You and the Company have agreed in writing that risk in the Goods does not pass to You at the delivery location, the Company shall not be responsible for any claim for loss or damage of the Goods in transit, whether or not the Company has arranged the carrier.  

7 DEFECTS NOT APPARENT ON INSPECTION  

7.1 You shall have no claim in respect of defects not apparent on visual inspection at delivery unless:  

7.1.1 the Company is notified in writing as soon as the defect is discovered and no use of, alteration to or interference with the Goods have been made before the Company has inspected the Goods;  

7.1.2 the notification has been sent within twelve (12) months of the date of delivery of the Goods or for an item not manufactured by the Company, within the warranty period specified by the manufacturer; or  

7.2 You shall not be entitled to any claim in respect of a defect arising by reason of the Goods not being maintained in accordance with the manufacturer’s instructions, the Company’s recommendations, fair wear and tear or damage due to accident, neglect, misuse or improper repair or in respect of Goods to which instructions have been made without the prior written consent of the Company or to which replacement parts not supplied by the Company have been fitted.  

7.3 The Company shall inspect the Goods as soon as reasonably possible and You shall take all steps necessary to enable the Company to do so.  

8 WARRANTY  

8.1 The Company warrants that, on delivery, and for a period of 12 months from the date of delivery (“Warranty Period”), the Goods shall conform in all material respects and that they will be constructed of sound materials and be of good workmanship.  

8.2 Subject to clause 8.2.1 if:  

8.2.1 You give notice in writing to the Company (or if requested to do so by the Company, the Company’s authorised dealer or repair agent) during the warranty period within a reasonable time of discovery that the Goods do not comply with the warranty set out in clause 8.1; or  

8.2.2 the Company is given a reasonable opportunity to examine such Goods, and  

8.3 Unless otherwise agreed in writing and subject to the terms of clause 14, the risk in the Goods shall pass to You at the point at which the Goods are taken in charge by a delivery courier.  

8.4 You agree to reimburse the Company at the cost of purchasing in full. (in cash or cleared funds) for the Goods and all other goods that the Company has supplied to You, in respective, in such case the Company shall pass at the time of payment all such sums or if earlier, when the Company serves You notice in writing stating that title to the Goods has passed.  

8.5 The Company may instruct an authorised dealer or repair agent to repair the Goods and shall notify You in the event that it does.  

9 TITLE AND RISK  

9.1 Unless otherwise agreed in writing and subject to the terms of clause 14, the risk in the Goods shall pass to You at the point at which the Goods are taken in charge by a delivery courier.  

9.2 Title to the Goods shall not pass until the Company receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Company has supplied to You, in respective, in such case the Company shall pass at the time of payment all such sums or if earlier, when the Company serves You notice in writing stating that title to the Goods has passed.  

9.3 Until title to the Goods shall not have passed to You, You shall:  

9.3.1 store the Goods separately from all other goods held by You so that they remain readily identifiable as the Goods;  

9.3.2 ensure that the Goods are insured in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.  

9.3.3 notify the Company immediately if it becomes subject to any of the events listed in clause 11.1; and  

9.3.4 give the Company all information or instructions relating to the Goods as the Company may require from time to time.  

9.4 Subject to clause 9.5, You may resell or use the Goods in the ordinary course of Your business (but not otherwise) before the Company receives payment for the Goods. However, if You resell the Goods before the Company receives payment for the Goods, You then sell them on behalf of the Company and:  

9.4.1 You do so as principal and not as the Company’s agent; and  

9.4.2 title to the Goods shall pass from the Company to You immediately before the time at which sale results to You occurs.  

9.5.1 Your right to resell the Goods or use them in the course of Your business ceases immediately; and  

9.5.2 the Company may at any time:  

9.5.2.1 require You to deliver up all Goods in Your possession that have not been resold, or irrevocably incorporated into another product; and  

9.5.2.2 if You fail to do so promptly, enter any of Your premises or premises of any third party where the Goods are stored in order to recover them.  

10 PRICE AND PAYMENT  

10.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Company’s published price list in force as at the date of delivery. Where the Goods are purchased on the Site, the price of the Goods shall be the price quoted on the Site. You shall pay the price to the Company in the manner agreed in writing, is only intended to provide adequate protection through normal conditions of transit of usual duration.
have, set off any amount owing to it by You against any amount payable by the Company under the Contract; and

10.11 it is your responsibility to verify the bank account details which you make payment to. the Company shall not be liable in the event that You make payment to an incorrect bank account as a result of a third party purporting to be the Company and informing you of changes to bank account details.

11 TERMINATION

11.1 Without limiting its other rights or remedies, the Company may terminate this Contract with immediate effect by giving written notice to You if:

11.1.1 You commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within 30 days of being notified in writing to do so;

11.1.2 you fail to pay any amount due under the Contract on the due date and such amount remains unpaid for 14 days after the Company has given You notification that the payment is overdue;

11.1.3 you take any step or action in connection with You entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a reorganisation of your business) that in the Company's opinion is likely to prejudice the Company's rights or interests;

11.1.4 You suspend, threaten to suspend, cease or threaten to cease to carry on any or a substantial part of your business; or

11.1.5 your financial position deteriorates to such an extent that in the Company’s opinion your capability to adequately fulfill your obligations under the Contract has been placed in jeopardy.

11.2 Without limiting its other rights or remedies, the Company may suspend provision of the Goods under the Contract or any other contract between You and the Company if You become subject to any of the events listed in clause 11.1.1 to clause 11.1.5, or the Company reasonably believes that you are about to become subject to any of them, or if You fail to pay any amount due under this Contract on the due date for payment.

11.3 On termination of the Contract for any reason You shall immediately pay the Company the amount then owing for all Goods supplied by the Company, and all Goods and services then in transit shall be delivered to You.

11.4 Termination of the Contract shall not affect any of the Company's rights to recover unpaid invoices and interest.

11.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force or on termination shall remain in full force and effect.

12 LIMITATION OF LIABILITY

12.1 nothing in these Conditions shall limit or exclude the Company's liability for:

12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as appicable);

12.1.2 fraud or fraudulent misrepresentation;

12.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;

12.1.4 defective products under the Consumer Protection Act 1987;

12.1.5 any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.

12.2 Subject to clause 12.1:

12.2.1 the company shall under no circumstances whatsoever be liable to the You, whether in contract, tort (including negligence) or otherwise, for any loss of profit, loss or corruption of data, loss of use, loss of production, loss of contract, loss of opportunity or otherwise, for any loss of goodwill or any indirect or consequential loss arising under or in connection with the contract; and

12.2.2 the Company's total liability to You in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no event exceed 100% of the price of the Goods.

13 FORCE MAJEURE

13.1 Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a reason beyond the reasonable control of that party including acts of God, war, riot, armed conflict, acts of terrorism, fire, flood, malicious damage, explosion, severe weather, industrial action, pestilence, actions of public authorities, shortage of materials, failure of utilities or equipment, rules or regulations of the country of origin of the Goods, changes to import or export laws or inability to obtain transport or shipping facilities.

13.2 if the period of delay or non-performance continues for two months, the party not affected may terminate this Contract by giving written notice to the other party.

14 EXPORT - CLAUSE ONLY APPLIES IF GOODS ARE DELIVERED OUTSIDE OF GREAT BRITAIN

14.1 This Clause 14 shall only apply where Goods are sold by the Company for delivery outside of Great Britain. If there is any conflict between this Clause and the Conditions then this Clause 14 shall take precedence.

14.2 Unless otherwise agreed in writing Goods for delivery outside of Great Britain are sold Ex Works (Incoterms 2010).

14.3 The cost of carriage and packaging if required by You shall be charged in addition to the cost of the Goods.

14.4 if you refuse or fail to take delivery of the Goods for any reason including restrictions on the import of the Goods into the designated country you shall have no right to return the Goods to the Company. the Company may at its sole option cancel the order or resell the Goods to your account. You shall be liable for all losses and costs incurred by the Company in connection with the Goods.

14.5 You shall be solely responsible for obtaining all import authorisations.

14.6 if any defect arises in the Goods and You wish to make a warranty claim then it shall be Your obligation to separate or detach the parts from the Goods and to install or repair or replace the entire Goods supplied under this contract by you. the Company shall pay the costs of the return, replacement or repair of the Goods for delivery outside the designated country, or fail to pay any instalment of delivery the party not affected may terminate this Contract by giving written notice to the other party. the Company shall pay the costs of the return of the defective Goods.

14.7 the Company shall be entitled at its option, to arrange for any defective Goods to be repaired on your Site.

15 DATA PROTECTION

15.1 The Company’s Privacy Policy explains the ways in which the Company intends to process Personal Data and shall apply to the processing of personal data for the purpose of these Conditions.

15.2 The Company does not require consent from You to process Personal Data for:

15.2.1 the performance of its obligations under these Conditions;

15.2.2 to comply with its legal obligations; or

15.2.3 for its own legitimate interests.

15.3 if the Company does require consent from you or a data subject, You or the data subject do not give consent and the Company’s service is not conditional on receiving such consent. Consent can be withdrawn by you or the data subject at any time by emailing the Company at info@sunrisesa.com.

16 CONFIDENTIALITY

16.1 you undertake that you shall not at any time during this Contract, and for a period of 5 years after termination of this Contract, disclose to any person or corporation, business, association, competitors, customers, clients, or suppliers of the Company or drawings, documents, computer software and other information not generally known to the public or to any third party, any confidential information,

16.2 you shall not use the company’s confidential information for any purpose other than to exercise your rights and perform any obligations under or in connection with this Contract.

17 YOUR DRAWINGS

17.1 you agree to be solely responsible for ensuring that all drawings, information, advice and recommendations given to the Company either directly or indirectly by you (“Customer Information”) are accurate. except as otherwise provided in these Conditions all representations of the Company of the Customer Information shall in no way limit Your responsibility under this Contract unless the Company agrees in writing to accept responsibility.

17.2 you shall indemnify the Company from and against all actions, claims, costs and proceedings which arise due to the misuse of the Company’s Customer Information, or in connection with or in consequence of the Company’s Customer Information.

18 GENERAL

18.1 the Company may at any time assign, transfer, mortgage, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

18.2 you may not assign, transfer, mortgage, charge, sub-contract, declare a trust over or deal in any other manner with any or all of your rights or obligations under the Contract without the prior written consent of the Company.

18.3 this Contract constitutes the entire agreement between the parties and supersedes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

18.4 each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement or on those on the Site. each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement or on the Site.

18.5 no variation of this Contract shall be effective unless it is in writing and signed by both parties.

18.6 no failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

18.7 if any provision or part-provision of the Contract is invalid, illogical, or unenforceable, it shall be treated as if it said the minimum extent necessary to make it valid, legal and enforceable.

18.8 any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.

18.9 all notices under or in connection with the Contract shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 18.8; if sent by pre-paid first class post or other next working day delivery service, at 5:00 am on the next Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier’s delivery receipt is signed; or, if sent by fax or email, one Business Day after the transmission.

18.10 no other than a party to this Contract shall have any right to enforce any of its terms.

18.11 the company may amend these Conditions from time to time and the version in force at the time of Your Order will be the Conditions subject to the Contract. any amendments made to these Conditions shall not affect any existing Order unless such amendments are required to reflect any changes in relevant laws and regulatory requirements.

18.12 the Company and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be exclusively determined by the courts of England and Wales.

18.13 each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.