AgVa Healthcare

AgVa

Techno-Commercial Proposal

For the supply and Installation of AgVa ICU Ventilator

AgVa ICU Ventilator Configuration

Quantity	Item Description
Main System	
1	AgVa ICU ventilator (152 x46x 42 cm)
1	24 Inch Display (resolution: 1920 x 1080
1	AC Power Cable
1	Breathing Circuit
1	Calibration Tube
1	Breathing Circuit with Breathing Bag
1	High Pressure Oxygen Pipe with DISS connector (22 mm)
Feature	**Description**
System Software	
Ventilation Modes	PC-CMV, PC-SIMV, PSV, PC-AC VC-SIMV(PS), VC-CMV, VC-AC, AI-VENT CPAP/PS, PC-BPAP, HFNC, nCPAP, nHFNC, NIPPV
Self-Cleaning Expiratory Flow Sensor	
Side Stream Cooling for Blower	
Lifetime O2 Sensor	
Reusable Digital Neonate Sensor	
Rugged Expiratory valve and Flow Sensor	
Inbuilt Nebulizer	
Inbuilt SpO2 Monitoring	
Storage Conditions	AgVa ICU Ventilator shall be stored in a cool, dry place away from direct sunlight and the following conditions shall be maintained: **Temperature:** -10 to 50 ℃ **Humidity:** 10 to 95 %RH, non- condensing **Atmospheric pressure**: 50 kPa to 110kPa **Caution:** The device shall be stored away from any sources of radiation

MAXIMUM RETAIL PRICE : ₹ 16,88,956 (Sixteen Lakh Eighty Eight thousand, Nine Hundred and Fifty Six)

SELLING PRICE : ₹ 8,87,900 (Eight lakh, Eighty Seven Thousand and Nine Hundred)

WARANTEE: 1 year standard warranty**.**

Note:

The above-mentioned price includes GST, Freight, Insurance, transportation to site & Custom Duty; the installation shall be done on FOC basis. Any additional/local state taxes shall be in buyer account. In case of any road permit required for delivery of unit at any particular site, the same shall be provided by the buyer for the movement of unit.

Theory of Operations

General Description

Mechanical ventilation is a complex process that involves the application of positive pressure breath, relying heavily on the compliance and resistance characteristics of the airway system. These factors determine the amount of pressure required from the ventilator to deliver a specified tidal volume (TV), which refers to the volume of air entering the lungs during inhalation. It's important to note that compliance and resistance are dynamic, meaning they can be influenced by the underlying disease state(s) that necessitated intubation in the first place.

Breaking down the process further, mechanical ventilation comprises four distinct stages, each playing a crucial role in maintaining respiratory support. The initial stage is the trigger phase, which marks the commencement of inhalation. This phase can be initiated either by the patient's own respiratory effort or by predefined parameters set on the mechanical ventilator. Following this, the inspiratory phase ensues, encompassing the actual intake of air into the patient's lungs.

Moving along, the cycling phase represents a brief interval where inhalation subsides, but exhalation has not yet commenced. Finally, the expiratory phase comes into play, involving the passive release of air from the patient's lungs. These stages collectively form the intricate process of mechanical ventilation, ensuring adequate respiratory support for individuals in need.

Rationale for the qualification of the product as a medical device

As per Medical device regulation (EU) 2017/745, Article 2 (1):

'Medical device' means any instrument, apparatus, appliance, software, implant, reagent, material or other article intended by the manufacturer to be used, alone or in combination, for human beings for one or more of the following specific medical purposes:

- diagnosis, prevention, monitoring, prediction, prognosis, treatment or alleviation of disease,
- diagnosis, monitoring, treatment, alleviation of, or compensation for, an injury or disability,
- investigation, replacement or modification of the anatomy or of a physiological or pathological process or state,
- providing information by means of in vitro examination of specimens derived from the human body, including organ, blood and tissue donations, and which does not achieve its principal intended action by pharmacological, immunological or metabolic means, in or on the human body, but which may be assisted in its function by such means.

The following products shall also be deemed to be medical devices:

- Devices for the control or support of conception;
- Products specifically intended for the cleaning, disinfection or sterilization of devices as referred to in Article 1(4) and of those referred to in the first paragraph of this point.

Hence, as per definition of medical device, AgVa ICU Ventilator is a device intended by the manufacturer to be used in combination with the accessories, for providing invasive, non-invasive, continuous or intermittent respiratory support to neonate, pediatric and adult patient population.

Classification & Justification

Class IIb as per **Rule 9** of ANNEX VIII of REGULATION (EU) 2017/745

Rule 9 –

All active therapeutic devices intended to administer or exchange energy are classified as class IIa unless their characteristics are such that they may administer energy to or exchange energy with the human body in a potentially hazardous way, taking account of the nature, the density and site of application of the energy, in which case they are classified as class IIb.

AgVa ICU Ventilator is an active therapeutic device intended to administer energy to or exchange energy with the human body in a potentially hazardous way, taking account of the nature, the density and site of application of the energy. Hence, this rule is applicable.

All active devices intended to emit ionizing radiation for therapeutic purposes, including devices which control or monitor such devices, or which directly influence their performance, are classified as class IIb.

AgVa ICU Ventilator is an active device but is not intended to emit ionizing radiation for therapeutic purposes, including devices which control or monitor such devices, or which directly influence their performance. Hence, this rule is not applicable.

All active devices that are intended for controlling, monitoring or directly influencing the performance of active implantable devices are classified as class III.

AgVa ICU Ventilator is an active device but is not intended for controlling, monitoring, or directly influencing the performance of active implantable devices. Hence, this rule is not applicable.

Conclusion:

*Hence as per **Rule 9** of ANNEX VIII of Regulation (EU) 2017/745, **AgVa ICU Ventilator** is classified as **Class IIb** as it is an active therapeutic device intended to administer and exchange energy with the human body in a potentially hazardous way*

*Hence as per **Rule 9** of ANNEX VIII of Regulation (EU) 2017/745**, AgVa ICU Ventilator** is classified as **Class IIb** as it is an active therapeutic device intended to administer and exchange energy with the human body in a potentially hazardous way.*

General description of the key functional elements

S.No.	Part Name	Item Description	Functionality
1.	EC-0109	Turbine	Turbine is a high speed centrifugal air pressure and flow generator. Which creates the necessary working flow and pressure for the device.
2.	ECA-0266	PCB Main Board	PCB main board is the central computing and transducing unit for the ventilator. It controls essential functions of the ventilator. Further it has various transducers, safety interlocks and power handling units installed over it.
3.	ECA-0259	PCB LED bar	This consists up of multiple light emitting diodes that are capable of emitting light at multiple wavelengths. This is used to inform the healthcare practitioner of any alarms or warnings.
4.	EC-0456	DISPLAY 23.8”	It is 23.8” captive touch-based GUI
5.	ECA-0260	Motor Driver PCB	This driver is responsible to provide accurate pluses of current to drive the Turbine
6.	EC-0166	SMPS	SMPS of switch mode power supply is used to reduce the AC voltage to the required DC voltage required by the ventilator system.
7.	EC-0162	BATTERY	Li-ion Battery pack that provides power backup in case of power failure by mains supply.
8.	EC-0092	DC FAN COOLING-12VDC	This unit blows the hot air from inside the ventilator to the external environment.
9.	MH-0321	Pressure Control Regulator	This a mechanical pressure regulator that regulates the line pressure to a set pressure.
10.	ECA-0029	Spo2 module	This module converts the analog pulse-oximetry data to machine readable digital data.
11.	MH-0301	2/2 Proportional Valve	This valve is a variable flow 2/2 solenoid valve that regulates the flow rate based on electrical inputs
12.	ECA-0246	Flow meter PCB	This is a module that computes the data sent by neonate flow sensor to the ventilator.

S.No.	Part Name	Item Description	Functionality
13.	**MH-0367**	**Inlet HEPA Filter**	Filtration of particles Matter and Bacteria
14.	**EC-0058**	**Flow Sensor - Inspiratory**	Used to measure the flow rate of the inspired gasses.
15.	**EC-0331**	**Neonatal Flow Sensor**	Flow sensor for measuring the flow rate at proximal end for neonate
16.	**EC-0129**	**Flow Sensor – Expiratory**	Used to measure the flow rate of the expired gasses.
17.	**SW.Version 1.3**	**Graphical User Interface**	AgVa ICU Ventilator Graphical User Interface allows users to Add, Adjust or Cancel Setting Parameters. AgVa ICU Ventilator Graphical User Interface is also used for the Monitoring of Parameters in Digital Format as well as in Graphical formats like Waveforms and /Or Loops. The AgVa ICU Ventilator Graphical User Interface is used as the Input/output Device to Communicate with the internal Algorithm Provided by the Blower Module Communication protocol.

Brief description of the accessories and their use

S.No.	Name	Material Description
1.	Breathing Circuit	This is a patient tubing used to provide passage of inspiratory and expiratory gasses to and from the patient.
2.	High pressure Oxygen Pipe	It is used to connect the high-pressure oxygen source to the ventilator.
3.	AC Power Cord	AC power cord is a detachable way of providing an alternating current of electric energy from a mains power supply to Ventilator 3 pin Top Molded & 3 Meter length Material: Copper
4.	Calibration Tube	It is used to connect the inspiratory port to expiratory port during the Calibration
5.	SPO2 Probe	SpO2 Sensor is used to measure the oxygen saturation in blood.
6.	Neonate Sensor with Cable	It is a proximal sensor to measure inspiraotry flow in neonate patients.
7.	Breathing Bag	This is used to replicate a lung during testing conditions of the ventilator.

This Distributor Agreement (the "**Agreement**") is made and entered into on ….. Day of …. 202... by and between:

A. **AGVA Healthcare Pvt. Ltd.,** is a company registered under the existing laws of India with its head office at A-1, Sector-83, Noida, UP – 201301, India (hereinafter referred to as "**AGVA**" or the "**Company**", which expression shall, unless repugnant to the context or meaning thereof, shall mean and include its successors, administrators and permitted assigns); **AND**

B. **……** a company registered under the existing laws of India with its registered office……. (Hereinafter referred to as the "**Authorized Distributor**" or "**AD**", which expression shall, unless repugnant to the context or meaning thereof, shall mean and include its successors, administrators and permitted assigns).

The Company and the AD shall hereinafter be collectively referred to as "**Parties**" and individually as a "**Party**".

WHEREAS:

i. The Company is engaged in the business of research and manufacture of high quality medical equipment. The Company is offering highest quality medical equipment at affordable prices under the trade mark of ISO-13485 at competitive prices. The medical equipment have been reliable and are extremely successful amongst the medical fraternity and the end user.

ii. The Authorised Distributor is engaged in business of distribution and selling of **AGVA-Pro** in the territory of **OPEN MARKET** and sells to hospitals, dealers, retailers and other customers excluding on e-commerce platform, direct to customer (D-2-C) through website and any other means.

iii. The Authorised Distributor has approached the Company to enter into an arrangement for seeking authorization to sell and market AgVa products and to use AGVA brand trademark. The Parties have agreed to enter into a distribution arrangement as per terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the above, and the mutual promises contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

1.1 In addition to terms defined elsewhere herein, in this Agreement the following terms shall have the following meanings:

"**Affiliate**" means any person or entity controlling, controlled by or under common control with such party.

"**AgVa Product**" means Company's products which are the subject matter of this Agreement and shall include all items sold by the Company. List of AgVa products permitted by the Company to be distributed by the AD are given in Annexure A.

"**AMC**" means Annual Maintenance Contract.

"**Annual Business Plan**" means the business plan as agreed between the Company and AD from time to time.

"**Applicable Laws**" shall mean any statute, law, regulation, ordinance, rule, judgment, notification, rule of common law, order, decree, by-law, governmental approval, directive, guideline, requirement or other governmental restriction, or any similar form of decision of, or determination by, or any interpretation, policy or administration, having the force of law of any of the foregoing, by any Governmental Authority having jurisdiction over the matter in question, whether in effect as of the date of this Agreement or thereafter and whether under common law or the laws of India or any other jurisdiction.

"**CMC**" means Comprehensive Maintenance Contract.

"**Confidential Information**" means all information, commercial, financial, technical or otherwise, disclosed to or otherwise obtained by the AD in connection with the arrangement under this Agreement and which is contained in, or discernible from, any form whatsoever (including without limitation data, drawings, films, documents and computer readable media), whether or not that information is marked or designated as confidential or proprietary. The Confidential Information includes, but

is not limited to, information concerning AGVA' own business (including business plans, marketing plans, research data and analysis, human resource policies, business contacts, business practices, financial information and commercial arrangements, software products and source codes, Methodologies / Processes / Documentation, or other intellectual property) or confidential information related to the customers of AGVA, or its business associates.

"**Dealer**" means sub-agents, sub-distributors, sub-representatives or other persons to act on AD's behalf and appointed with prior-approval of the Company for sale of AgVa products.

"**Effective Date**" means the date on which this Agreement is executed and comes into force.

"**Service Engineer**" means authorised Service Engineer designated / provided by the Company for service of AgVa products.

"**Territory**" means the geographical areas and markets as specified in Annexure D to this Agreement.

"**Warranty Period**" means the period of standard warranty of one (1) year on all AgVa products from the date of installation at the customer's place.

1.2 In this Agreement, unless the context otherwise requires:

a) References to the singular include the plural and vice versa, and references to a gender include the other gender; and

b) The headings in this Agreement are for purposes of reference only and shall not in any way limit or otherwise affect the meaning or interpretation of any of the terms hereof.

2. COMMENCEMENT AND TERM

2.1 The Agreement shall commence on the date, this Agreement is fully executed by both the Parties ("**Commencement Date**").

2.2 The term shall begin from the Commencement Date and continue for a period of twelve (12) month and shall automatically renew for successive one-year periods thereafter, till the time this Agreement is terminated as per the Termination Clause of this Agreement. The Parties shall not sign a fresh Agreement after lapse of each year and this Agreement will govern all engagements till the time this Agreement is in force, unless agreed otherwise.

3. PURPOSE

3.1 The Agreement is signed between the Parties to define AgVa products, pricing, warranties (if any), various policies encompassing relationship of the Parties with respect to supply, distribution mechanism, etc relating to the AgVa products.

4. APPOINTMENT AND SCOPE OF AN AUTHORISED DISTRIBUTOR

4.1 Designation of AD: After discussing with the representative and concerned officials of the Company, the proposed AD under this Agreement shall submit the following documentation to the Company in order to be designated as an Authorised Distributor or AD of the Company:

a) Self-attested GST Certificate of the AD
b) PAN card of the AD
c) 3 year IT return copy of the AD
d) Adhaar copy of the owner of the AD
e) Undertaking on stamp paper that the AD or any of its owners are not involved in any criminal offence
f) Signed copy of the Non-Disclosure Agreement as provided by the Company

4.2 Exclusive Appointment: Subject to the terms and conditions of this Agreement and satisfaction of conditions as prescribed by the Company under the above clause, the Company shall appoint and grant the AD exclusive right to sell and distribute the AgVa products to customers located in the Territory (the "**Customers**") and to render other services as a distributor for the Company as set forth herein. AD shall

limit its activities with respect to the AgVa products to Customers located within the Territory and refrain from selling or otherwise transferring, directly or indirectly, the Products to any person outside the Territory, without the express written consent of the Company. The Company shall not sell or otherwise supply, directly or indirectly, the AgVa products in the Territory except by sale through the AD.

4.3 The Company may designate other authorised distributors as per its requirement in various geographic locations and other Territories which are not subject matter of this Agreement.

4.4 Territory: Sale/supply of all AgVa products to Customers and Dealers shall be done only through AD network in its Territory. There shall be demarcation of Territory between various authorised distributors of the Company and AD shall not engage in sale of AgVa products outside its Territory. The Company shall sell the AgVa products through its AD network. However, the Company may make sale/supply of AgVa products directly to Customers in two cases: (i) where the Customer is an institution (Government Authority/Hospital/etc) and such institution requires the manufacturer (the Company) to directly provide quote and supply AgVa products, and (ii) where the institution require the quotation by manufacturer (the Company) in which case the Company shall provide support for quotations, however supply shall be made through the AD network.

4.5 Dealers: The AD may appoint sub-agents, sub-distributors, sub-representatives or other persons to act on AD's behalf (known as Dealers under this Agreement) or to otherwise perform any of its obligations under this Agreement within the Territory; provided that: (i) any compensation to such Dealer to act on AD's behalf or to otherwise perform any of AD's obligations shall be solely AD's responsibility, and (ii) such appointment does not deprive the Company of the essential rights to which it is entitled under this Agreement. Any agreement with such Dealer shall not extend beyond the terms of this Agreement. The AD shall be responsible for acts of such Dealers which may be engaged by the AD for AgVa products.

4.6 Relationship of Parties: The AD is an independent contractor and is not and shall not be deemed to be an employee, legal representative, general agent, joint venture, or partner of the Company for any purpose. The AD acknowledges that the Company has not granted it any authority to make changes to the Company's terms and conditions of sale, grant any warranties in excess of those extended by the

Company or limit its liabilities or remedies less than the Company limits its liabilities and remedies, sign quotations, incur obligations (expressed or implied), or in general enter into contracts on behalf of the Company or bind the Company in any transaction with customers, governmental agencies or third parties.

4.7 Non-performance: In case the AD is not able to meet the minimum sales targets ("**MST**") given as target by the Company by the end of 3rd quarter then the Company reserves right to dilute exclusive rights granted to the AD by way of this Agreement. The MST for AgVa products is given in Annexure **A**. In such eventuality, the Company may appoint additional authorised distributor for the same Territory and the AD will not be able to assert its right to exclusivity to sell AgVa products in the Territory.

5. PRICING

5.1 **Retail/Selling Price**: The Company shall exercise control over maximum retail price ("**MRP**") of AgVa products and such MRP shall be inclusive of costing, promotional discounts and/or offers. The Company shall also decide the minimum selling price ("**MSP**") of the AgVa products and the AD or any of his Dealers cannot sell the AgVa products below the MSP as determined by the Company. If an exceptional situation arises and the AgVa product is required to be sold at below MSP then express consent from the Company shall be sought by the AD. Any discounts or promotions will be at sole discretion of the Company.

5.2 AgVa products which are subject matter of this Agreement are listed in Annexure A hereof. The AgVa products shall be distributed by the AD at full mark-up price subject to MRP as mentioned in the price structure in Annexure B hereof. All sales by the AD shall be in accordance with the terms and conditions of this Agreement.

5.3 During the Term of the Agreement, the pricing of AgVa products as given by the Company to the AD shall be strictly as per Annexure B. The pricing of AgVa products shall remain fixed and unchanged, unless and otherwise notified by the Company or agreed to in writing between the Parties. The AD has to strictly adhere to the pricing policy of the Company and any deviation of the pricing shall be considered to be a direct breach of this Agreement and may lead to termination of this Agreement before the expiry of the Term.

5.4 The AgVa product prices quoted are exclusive of any national, state or local sales, use, value added, GST or other taxes, which shall be the responsibility of the AD. If the Company is required to pay any such taxes or fees, such items shall be added to the invoice/debit note to be paid by AD.

5.5 The Company reserves the right to issue various schemes, special events and other sale incentives to boost sale of its AgVa products from time to time, which will be notified to the AD by the Company. The AD shall be obligated to pass on the benefits under the schemes and incentives to sub-distributors and/or end users.

6. GENERAL TRADING POLICIES

6.1 During the Term of this Agreement, the AD shall ensure that it complies with Applicable Laws in relevant jurisdiction while performing its obligations under this Agreement.

6.2 The AD shall be solely responsible for payment of its own salary/income, any taxes and for all payments, deductions or government/other remittances related to its employees and independent contractors. If the AD insists on buying AgVa products from the Company in a situation when it is not in conformity with Applicable Laws, then after delivery of the AgVa products by the Company, the AD shall undertake all the risk and responsibility relating to the transaction, including but not limited to contain the goods loss, return, and examination cost, etc. The Company cannot be held responsible for AD's negligence relating to non-compliance of Applicable Laws.

6.3 All new Dealer appointments must be approved by the Company through its appointed manager/executive responsible for the territory and will require both the Company and the AD to initiate under authorised location/channels as discussed by both the Parties. All new Dealer appointments will be followed up by opening a specified code by the AD and the same shall be shared by the AD with the Company.

6.4 All Dealers are expected to adhere to the pricing policy of the Company. It shall be the responsibility of the AD to strictly monitor the invoices of the Dealers so that no Dealer over charges in the invoice beyond the agreed price as per the pricing policy of the Company and there is strict adherence to the pricing as per Annexure B. If any incident of over invoicing is reported from any of the appointed Dealers, then

the AD will be held responsible and might be at risk of exclusion from any sale schemes in the future.

6.5 The AD is expected to keep full representation of the Company products with minimum stock as specified in Annexure A and Annexure B

6.6 All replenishment orders must follow the specified MOQ listed in Annexure B.

6.7 The AD will ensure that all new AgVa products and promotional material will be properly represented in the retail area, the AD office, Dealer office, store or hospitals. The AD shall ensure that the promotional material is prominently put up such that the information is clearly visible.

6.8 The AD will ensure that its owners, operators and employees will sell and use Company's AgVa products only in its authorized location/channel. The AD shall ensure that all AgVa products are serialized and property inventory documentation is maintained for AgVa products by the AD as well as the Dealers.

6.9 The AD or the Dealer shall not sell, trade or distribute any of the AgVa products on RE-SALE, to any third party either foreign or domestic, except with the prior-written authorization from the Company.

6.10 The AD or the Dealer shall not sell, trade or distribute AgVa products to any location/channel(s), other than authorised by the Company's representative in-charge of the territory concerned. This applies to all AgVa products inclusive of samples and gifts given out with purchases. Failure to comply will result in immediate account closure and shall be treated as a material breach of contract.

6.11 As a rule, all ordered AgVa product(s) by the AD will be shipped / billed to the AD specified address only.

6.12 It is the AD's sole responsibility to check orders and shipments prior to receiving them. If there is a mismatch between the quantities mentioned on the invoice and actual products delivered, then AD shall raise a dispute and submit his claim directly to the despatch manager at the Company's office. In case shipments are received without cross-checking then no disputes can be raised by the AD at later stage.

6.13 **Delivery Time**: All AgVa products ordered pursuant to accepted purchase orders will be scheduled for delivery in accordance with the Company's normal delivery schedule.

6.14 **Terms of Delivery**: Delivery of the AgVa products shall be done through courier or road transport depending on the nature of order after advance payment by the AD.

6.15 **Demo Devices**: The AD shall procure from the Company, **One** demo devices which are the minimum number of demo devices for AgVa products for providing demo to the Customer. The demo devices shall be procured against a deposit to be made by AD to the Company. Once the demo devices are returned to the Company, the deposit shall be returned to the AD. The AD shall ensure that that demo devices are in perfect working condition at the time of return, in case these devices are not in working condition then the Company shall be entitled to make appropriate deductions.

6.16 **Back-up Devices**: The Company shall provide some back-up devices free of cost. The logic behind back-up devices is that in case there are some defective AgVa products and they are returned during warranty period then to provide seamless customer service and to enhance The Company's reputation, the AD shall provide a replacement to the Customer so that the Customer's business does not suffer. The number of back-up devices shall be determined on the basis of sales made by the AD. (After reaching a minimum number of sales). The AD shall be entitled to 1 back-up devices against sale of 5 AgVa products. It is made clear that, under no circumstances shall the AD SELL the backup devices. In case there is breach of this clause then it will be considered as material breach of this Agreement.

7. RETURNS & AGVA PRODUCT WARRANTY

7.1 **Warranty Period/AMC/CMC:** All AgVa products shall carry a standard warranty of one (1) year ("**Warranty Period**") from the date of installation at the customer's place. During the Warranty Period, all technical/logistical and clinical support will be provided by the Company. After expiry of the Warranty Period, the AD may buy AMC / CMC from the Company at a rate prescribed by the Company. The AD may offer the AMC / CMC directly to the end customer after adding mark-up. The Company will provide the full price list of all the consumables / spare parts and the machine as laid down in Annexure B. The AMC / CMC Policy is enumerated in a separate document and may be procured from the Company at request.

7.2 **Overall Service Policy**: Installation, services and maintenance of the AgVa products are included under the AD's scope for the period of the warranty. Company will provide the technical back up support however; the prime responsibility lies with the AD. Charges and period of charges shall be mentioned in the sale agreement entered into with the Customers by the AD.

7.3 **Returns:** The AD reserves the right to EITHER develop a customer centric return policy that is best suited to the local/regional business practice and conditions, OR may simply opt-out on returns entirely, making all end consumer sale as final, with the exception of the reporting sale of any defective units. In either case, the option to be availed by the AD has to be communicated by the AD to the Company beforehand. In case returns are made applicable through the Company, then the returns will be acceptable within a defined timeline from the date of sale/supply of the AgVa product as agreed mutually between the Parties to this Agreement. The AD and its Dealers will clearly mention Company's Return Policy in the quotation and sales agreement provided or entered with the Customer.

7.4 **Recommended Returns & Refund Policy:** In order to offer the best quality customer service support, the Company recommends that the AD should only consider returns of the AgVa products by the Customer only if it has a technical glitch or if it is not performing to the standards/technical manual. Returns may also be considered by the Company if the AgVa product is found to be defective / non-functional / or unsatisfactory by the Company's Service Engineer for lack of quality / functionality and gives his recommendation at the customer site for return of the AgVa product. The Service Engineer shall print and paste the return label on the relevant defective AgVa product and send it to the AD. The AD shall immediately on receipt of the communication from the Service Engineer, send the defective AgVa product for replacement. These replacement goods will come from the additional defective allowance inventory as provided by the Company with each purchase order, where defective allowance percentage ratio maybe adjusted from time to time to better reflect the defective rates as faced by each AgVa product in the market place.

7.5 **Shipping & Tax Charges**: All shipping, duties and tax charges are non-refundable.

7.6 **Incorrect Shipping Details**: In case customer/buyer enters incorrect shipping address/information and the shipment has already been shipped out, then the AD upon been notified of such error by the customer/buyer should inform the

customer/buyer of the error along with any additional shipping fees applicable. The AD must commit to resending the AgVa product at the correct address OR refund the amount for purchased AgVa product by the customer/buyer, only after the shipment package has been returned to the AD along with undeliverable note from the local postal service.

7.7 **Wrong AgVa product(s) Shipped / Ordered**: In case wrong AgVa product(s) has been shipped out by the AD to the customer/ buyer, the AD shall assume full responsibility for such mistake and provide a 5% discount on the sale transaction to the customer/buyer to compensate for any inconvenience caused and help the customer/buyer with the process of exchanging and providing the correct AgVa product immediately, at his own cost. However, in case the customer/buyer orders wrong AgVa product(s), then the customer/buyer shall go through the standard return/exchange procedure to obtain a Return Material Authorization (RMA) no., and will be responsible for incurring any additional shipping expenses as needed.

7.8 **Company's Limited Warranty**: The Company provides limited warranty on AgVa product(s) against defects in materials and workmanship under ordinary consumer use. This limited warranty only applies to AgVa product(s) purchased from the Company directly, or through the AD, or otherwise authorised/approved Dealer or any other sales channel as authorised by the Company. Warranty period and coverage may vary for each AgVa product as further described under "*Product Specific Warranty Exclusion Notes*" in Annexure C. The coverage of limited warranty on most AgVa products lasts for one year from the date of installation of the AgVa product.

7.9 **Warranty Exclusions**: This limited warranty does not cover firmware or software defects, normal wear and tear , or damage caused by neglect, misuse, accident or mistreatments such as the following, but are not limited to:

a) Dropping
b) Immersing the product in liquid
c) Exposing the product to extreme temperatures; or
d) Exposing the product to excessive force; or
e) Product modification or disassembly; or
f) Using the product for the purpose of which it is not intended to be used

7.10 **Warranty Service and Product Issue Correction**: During the Warranty Period, if a defect arises in the AgVa product, and if the customer /buyer follow the return instructions, the AD will at their option, either to (i) replace the defective AgVa product with a brand new unit, or (ii) refund the purchase price of the defective AgVa product. This limited warranty applies to any replacement unit for the remainder of the original Warranty Period or for 90 days, whichever is longer. All replaced units for which a refund is given or defective units which were exchanged should be returned to the Company by the end of the month of the transaction and will become the property of the Company. Under no circumstances, the defective AgVa product should be left with the AD beyond the calendar month of the transaction.

8. PAYMENT & ORDERING POLICIES

8.1 All regular purchase orders should be placed to the Company between 1st and 5th of every month with 100% advanced money on the price as mentioned in Annexure B. Under no circumstances, AgVa product(s) will be invoiced without the advance money in form of electronic transfer/ cheque payable at Noida. AD shall make the advance payments and the payment terms will be linked with delivery period. There is no credit period for Ads and all sales are subject to advance payment. The goods will be despatched from the Company only after realisation of cheque and credit of money in the Company's account. In case there is a small urgent requirement of small number of AgVa product during the course of the month, it will be despatched immediately from the Company without waiting for the advanced money, however such outstanding amount will have to be cleared by the AD before placing the next month's order. This will ensure smooth sales operation without causing any inconvenience to the customer/buyer.

8.2 Any applicable sales scheme from the Company will be offered to the AD in form of credit note at the end of such sales scheme.

8.3 All goods will be despatched after realisation of the payment and will have some stock as Defective Allowance Inventory along with the main ordered qty. At the end of each quarter, there will be stock audit of the Defective Allowance Inventory and if there has been no event of defective stock during a quarter or if there was any less incidence of defect in the stock compared to the stock of Defective allowance inventory, the balance stock has to be returned back to the Company at the end of the quarter.

8.4 It is the responsibility of the AD to maintain the accounting of its Dealers and any dispute of payment / stock / accounting / schemes between the appointed Dealer and the AD. Further, it is the sole responsibility of the AD to resolve the issues amicably with the Dealer(s). The Company in no way shall be responsible for any transactional dispute between the AD and the Dealer.

9. REPRESENTATIONS, WARARANTIES AND COVENANTS

9.1 The AD and the Company, as applicable, make the following representations, warranties, and covenants:

a. AD is a company duly organized, validly existing, and in good standing in India, is qualified to do business and in good standing in each jurisdiction located within the Territory, and is and will remain in compliance with all applicable laws and regulations in the conduct of its business and, specifically, in its sale of the AgVa products and provision of any services hereunder.

b. The Company warrants and represents that the Products will be free from defects in design, materials, and workmanship and conform with any specifications provided.

c. The Company's execution of this Agreement and performance of its obligations and duties hereunder, do not and will not violate any agreement to which Company is a party or by which it is otherwise bound.

d. Neither Party is subject to any pending or threatened litigation or governmental action that could interfere with its performance of this Agreement.

e. The terms of this Agreement are the binding legal obligation of each Party and are enforceable in accordance with the Applicable Laws.

10. RESPONSIBILITIES OF THE PARTIES

10.1 **Responsibilities of the AD:** The AD agrees that it will diligently perform the services and obligations detailed in this Agreement. Distributor agrees that it will:

a. Actively use its best efforts to promote and penetrate the market for Agva Healthcare's Products in the Territory.

b. Maintain adequate premises and facilities within the Territory, at its own expense, from which to sell and/or service the Products.

c. Establish and perform the requirements of the Annual Business Plan, as circulated time to time, and attend a mid-year meeting with Agva Healthcare to review distributor's compliance with such plan.

d. Employ an adequate number of capable sales and Service Engineers at its own expense, to engage in the sale and service of the Products.

e. Require its sales and service engineers from time to time, as may be mutually agreeable, to visit Agva Healthcare's facility at distributor's expense, for the purpose of developing expertise in the capabilities, competitive advantages, and operation of the Products.

f. Promote the Products in trade shows, open houses, or exhibitions, including mailing of promotional literature to prospective customers.

g. Submit to Agva Healthcare's regular monthly status reports in the format.

10.2 **Responsibilities of the Company:** The Company agrees to the following during the Term of the Agreement:

a. Provide training without additional charge at distributor's facility/ company's Facility, for a reasonable number of distributor's sales personnel in use, maintenance, and installation of the Products. Agva Healthcare's agrees to pay all expenses of its employees to conduct such training sessions, including salaries and transportation.

b. Furnish distributor, without charge, reasonable quantities of Product literature, including catalogues, circulars, photographs, camera ready artwork, operating and service manuals, advertising and sales material in English language or other translated regional language format which Agva Healthcare, at its option, may publish or prepare from time to time.

c. Render assistance, as needed, to distributor on technical and sales problems and make visits to the Territory.

d. Invoice distributor for each Product sold on the day it is shipped or in accordance with the terms of the accepted order.

e. Participate in trade shows, open houses or exhibits in the Territory as Agva Healthcare deems appropriate in its discretion.

f. Assist distributor with the development and approval of an Annual Business Plan, including attendance at a meeting with distributor to conduct a mid-year review of such Annual Business Plan.

11. INTELLECTUAL PROPERTY AND TRADEMARKS

11.1 **Intellectual Property:** No licence under any Company's intellectual property, trade secret, patent, patent application, industrial design, trade mark, copyright, confidential process, formula, plan, computer program, data or know how is granted to the AD or can be implied by disclosure to the AD of any Confidential Information hereunder.

11.2 **Trademarks:** AD shall not, during the term of this Agreement and thereafter, directly or indirectly, attempt to acquire or damage the value of the goodwill associated with any of the trademarks of the Company, nor counsel, procure or assist any third Party to do any of the foregoing.

12. NOTICES

12.1 Any notice, demand or communication required or permitted to be given, or made under this Agreement shall be in writing and shall be served to the Company address mentioned first hereinbefore, and to the AD at its address mentioned first hereinbefore. Either Party shall notify to the other in writing of any change in such

address for services of notice upon it. The notices shall be delivered personally, or by legible fax, or by registered post (with recorded proof of delivery) or by email. Email for the Company is support@agvahealthtech.com and for the AD is……..

13. FORCE MAJURE

13.1 Neither Party shall be held liable for any failure to perform that is due to any cause or circumstance beyond the reasonable control of such Party, including without limitation a demand for such AgVa products and other products manufactured/sold by the Company which exceeds Company's ability to supply them, earthquakes, fire, accidents, floods, storms, other Acts of God, riots, wars, rebellions, strikes, lockouts or other labor disturbances, national or international emergencies, government rules, regulations, acts, orders, restrictions or requirements or any other cause or circumstance beyond the reasonable control of such Party. No such inability to deliver or delay in delivery shall invalidate the remainder of this Agreement. The Party claiming such force majeure condition shall notify the other Party as promptly as practicable after such Party becomes aware of the occurrence of such force majeure condition. If there is a delay in performance of obligations of the Parties due to force majure event, then the periods for the completion of the Parties' obligations hereunder shall be automatically extended by the period of such delay.

14. TERMINATION

14.1 Either Party may terminate this Agreement prior to its expiration upon the occurrence of either of the following:

g. the other Party becomes insolvent, or institutes (or there is instituted against it) proceedings in bankruptcy, insolvency, reorganization or dissolution, makes an assignment for the benefit of creditors has any of its material assets confiscated or expropriated; or

h. the other Party (in this case, the "**breaching Party**") fails to perform any of its obligations hereunder and fails to correct such failure within 30 calendar days after receiving written demand therefore from the non-breaching Party, specifying the failure in sufficient detail for the breaching Party to correct such failure; provided, however, that upon a second breach of the same obligation by such Party, the other Party may forthwith terminate this Agreement upon notice to the breaching Party; or

i. AD defaults in any payment due to the Company for AgVa products purchased under this Agreement and such default is not cured for a period of fifteen (15) days following the Company's written notice to the AD; or

j. AD fails to perform or meet the provisions of the Annual Business Plan, as agreed from time to time, and such non-compliance is not cured for a period of thirty (30) days following the Company's written notice to the AD.

15. CONSEQUENCES OF TERMINATION

15.1 In the event the Agreement is terminated, the following shall be the consequences:

15.1.1 All the AD's rights under this Agreement shall cease and no payment whatsoever shall be due to the AD for loss of goodwill, anticipated profits and any other claims or losses in respect of such termination. The AD hereby waives any claim to receive any compensation as a consequence of the termination of this Agreement;

15.1.2 The provisions of this Agreement shall, to the extent stated or necessarily implied, survive the termination thereof;

15.1.3 Cancellation, termination or expiration of this Agreement shall not relieve or release either Party from making payments which may be owing to the other Party under the terms of the Agreement.

15.2 Notwithstanding anything to the contrary set forth herein, termination of this Agreement shall not relieve any Party from any obligations hereunder which are outstanding on or relate to matters or claims occurring or arising prior to, the date of such termination or which survive such termination by their own terms or nature.

15.3 In the event that this Agreement is terminated or expires on its own terms, Company shall have no further responsibilities to the AD except that in the event the Agreement terminates for any reason other than a breach hereof by the AD, in which case the Company shall be obligated to process orders accepted by the Company prior to the effective date of such termination or expiration or within the reasonable time.

15.4 The AD shall at its own expense return to the Company promptly all information, documentation and materials confidential to the Company related to the engagement under this Agreement together with any copies thereof or any other documents entrusted to the AD by the Company.

16. NON-DISCLOSURE OBLIGATIONS

16.1 The terms of this Agreement and policies as referred hereto are confidential and should not be disclosed to any third party. This Agreement and policies as referred hereto have been established by the Company to help ensure the legacy of the Company as the top manufacturer of high quality medical equipments, to protect the reputation of its name and products. This Agreement and policies as referred hereto are also designed to ensure that the AD has the incentive to invest resources into services for the Company's customers.

16.2 The AD shall keep the Confidential Information confidential and shall not disclose such Confidential Information, in whole or part, to any person or entity other than its subsidiaries or affiliates and their respective officers, directors, employees, agents and representatives, (Collectively "**Representatives**") who need to know such Confidential Information in connection with such Party's evaluation of the submitted product pricing information, except with the prior written consent of the Company or as otherwise permitted hereunder. Prior to disclosure of any Confidential Information to any Representative, the AD shall advise such Representatives of the confidential nature of such information and shall, as a condition precedent to such disclosure, requires its Representative to agree to maintain the confidentiality of the Confidential Information as required by this Agreement. The Confidential Information shall be used by the AD solely for the purpose of evaluation of or participation in the proposed opportunity, and shall not be otherwise used for AD's own benefit or for any purpose detrimental to the interest of the Company. In addition, the AD shall provide at least the same care to avoid disclosure or unauthorised use of the Confidential Information as it provided to protect its own Confidential Information, which care shall in no event be less than that which is commercially reasonable. The AD shall not remove any copyright notices or other legal notices appearing on any document comprising the Confidential Information.

17. DISPUTE RESOLUTION AND GOVERNING LAW

17.1 Any dispute arising between the Company and Authorised Distributor arising out of or in connection with this Agreement, shall initially be resolved by amicable negotiations amongst senior executives of the Parties and, if not resolved through such negotiations within 30 (thirty) days of written notice of the existence of such dispute, be finally settled by binding arbitration as per the provisions of the Arbitration and Conciliation Act, 1996 as amended from time to time, by a tribunal comprising of a sole arbitrator appointed by the Company.

17.2 The seat and venue of arbitration shall be Noida, India and it shall be conducted in the English language.

17.3 During the arbitration, the Parties shall continue to full fill their respective obligations under this Agreement except for such obligations, which are the subject matter of the arbitration.

17.4 This Agreement shall be governed by the laws of India. In respect of all matters arising out or relating to this Agreement, the courts at Noida, India shall have exclusive jurisdiction.

18. GENERAL PROVISIONS

18.1 **AMENDMENT**

All amendments or modifications to this Agreement shall be valid and effective only through a written instrument agreed and signed by both the Parties.

18.2 **ASSIGNMENT.**

The AD shall not assign, pledge or otherwise transfer any of its rights, interest, or obligations hereunder, whether by operation of law or otherwise, without the prior express written consent of the Company.

18.3 **SEVERABILITY**

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

18.4 **SUCCESSORS AND ASSIGNS**

This Agreement is binding upon, and inures to the benefit of, the Parties and their respective successors and assigns. The purpose of a successor's clause is to bind business successors or assigns to the terms of the agreement in the event of a transfer.

18.5 **ENTIRE AGREEMENT**

This Agreement contains the entire agreement of the Parties with respect to the transactions contemplated hereby and supersedes all prior written and oral agreements, and all contemporaneous oral agreements, relating to such transactions.