

## Ossis Limited Warranty

### 1. Definitions

- 1.1 “**Customer**” means (a) any person that buys a Product, whether directly from Ossis or from another person and (b) any person that uses a Product.
- 1.2 “**Custom Product**” means (a) any Product that Ossis manufactures from information and specifications provided by a Customer and (b) any stock Product that Ossis modifies at the request of a Customer.
- 1.3 “**Ossis**” means Ossis Limited, a New Zealand company.
- 1.4 “**IFU**” means the Instructions for Use that accompany the Products.
- 1.5 “**Information**” means all information in relation to the Products that Ossis may provide, from time to time, to the Customer including, without limitation, IFUs, surgical techniques, product labels, design history files and marketing information.
- 1.6 “**Products**” means the full range of products (including packaging and labelling), including Custom Products that Ossis designs, manufactures and sells from time to time.

### 2. Coverage

- 2.1 Ossis warrants the Products against defects in materials or workmanship.
- 2.2 The term of this Warranty is 6 months from date of shipment, ex works Christchurch, other than for Custom Products where the term of this Warranty shall be 1 month. However, if an IFU for the Product specifies a different term, the IFU shall govern.

### 3. Asserting a Claim

- 3.1 To assert a warranty claim, the Customer should contact Ossis’ local representative. If there is no local representative, the Customer should contact Ossis directly. The contact details of Ossis are set out at the end of this document.
- 3.2 Ossis shall not accept a warranty claim unless and until either Ossis, or its authorised representative, has inspected the Product (or the part that is the subject of the claim), identified the defect and determined that none of the exclusions to coverage apply. Ossis shall not reject, unreasonably, a warranty claim.
- 3.3 If Ossis determines that a returned Product was not defective, or that the warranty claim was otherwise not valid, Ossis may, at its discretion, charge the Customer a handling and service fee.
- 3.4 If Ossis accepts the warranty claim, Ossis shall either repair or replace the defective Product, as Ossis shall determine in its sole and absolute

discretion. If Ossis does not wish to repair or replace the defective part, it may, instead, refund the purchase price.

- 3.5 The Customer shall bear all costs of returning the Product to Ossis, including explanation and applicable freight and insurance costs, both ways.

### 4. Inspection

- 4.1 Before use the Customer shall visually inspect the Products, to the extent practicable, for any obvious damage, defects or other evidence that the Products do not conform to the order.
- 4.2 For any defect that the Customer could have reasonably discovered through prompt visual inspection, the Customer must give written notice to Ossis of such defect within thirty (30) days after receipt of the Products, other than for Custom Products where the notice period shall be seven (7) days. Otherwise, the Customer shall have waived its right to make a warranty claim in respect to such defect.

### 5. Exclusions

- 5.1 This Warranty is void in any of the following circumstances:
- The Product has been damaged due to misuse, abuse, neglect, mishandling or other causes.
  - The Product has been adjusted, modified, altered or adapted except as authorised by Ossis in writing or as directed by Ossis in relevant documentation and manuals accompanying the Product, and then strictly in accordance with such directions.
  - The Product has been used by a person who does not possess the appropriate qualifications, experience and training in relation to such Product and its use.
  - The Product has been improperly used, repaired or maintained.
  - The Product has been assembled or used with parts not approved by Ossis.
  - The Product has been used for purposes other than for which it was designed.
  - The Product has been used outside its stated specifications, capacity and operating parameters.
  - The Product has been damaged during shipment.
  - The Product has been used in conjunction with third-party products where the use of those products in combination with the Product with respect to the Customer has not been approved of by Ossis in writing.

5.2 If the Product needs servicing, the Customer shall only engage service technicians approved by Ossis. Ossis shall not be liable if the Product has been altered, damaged or rendered non-functional through incorrect use or servicing.

5.3 This Warranty does not cover normal maintenance and replacement of consumable parts specified by Ossis.

5.4 It shall be a condition of this Warranty that the Customer checks the Product periodically for obvious problems or malfunctions. The Customer should check for loose fittings, damage, excessive wear and replacement of consumable parts.

5.5 The Customer may use the Product for many different purposes and applications. Therefore, Ossis cannot warrant that the Product is suitable for the Customer's specific purpose or application.

5.6 Ossis has a policy of continual Product improvement. Specifications are subject to change without notice. Ossis shall be under no obligation to implement an improvement to Products already in the field.

## 6. Exclusive Remedy

6.1 The remedies in this Warranty are the sole and exclusive remedies and no other remedies whatsoever shall be available to the Customer.

6.2 Ossis' sole responsibility is to repair or replace a defective part the subject of a valid warranty claim. Otherwise, Ossis at its sole discretion will refund the purchase price.

6.3 This is an express warranty. Ossis disclaims any other express or implied warranties, including warranties of merchantability or fitness for purpose, to the maximum extent permitted by law.

6.4 Statements, representations and specifications in any Information concerning the Product shall not be deemed warranties, nor shall they extend or expand Ossis' obligations under this Warranty.

6.5 No employee, representative, dealer, agent, distributor or service company acting for Ossis has the authority to extend or modify the terms of this express warranty unless Ossis expressly agrees, in writing, to such extension or modification.

## 7. Limitation of Liability

7.1 For Custom Products the Customer acknowledges that the product will be designed and manufactured in accordance with the Customer's prescription. Ossis provides general guidelines concerning the suitability of its Products. It is not always possible for Ossis to provide specific guidelines for all surgical procedures. Proper prescribing of a specific Product for a specific surgical procedure will always be the Customer's responsibility. The Customer must assume the ultimate responsibility for the selection and use of the Products. Ossis does not warrant the

performance of its Products or their suitability for any specific purpose.

7.2 The Customer shall strictly comply with any instructions for use, cleaning and sterilisation, care and maintenance, trouble shooting, warnings and safety procedures provided by Ossis. Ossis shall not be liable for any costs or damages incurred by any person because of such person's failure to comply with such instructions.

7.3 To the maximum extent allowed by law, Ossis disclaims liability for direct, indirect, incidental, special or consequential costs or damages of any kind. Without limiting the generality of the foregoing, Ossis disclaims liability for: (a) damages to person or property caused by a Product; or (b) damages resulting from the inability to use the Product, including loss of profits, loss of operations whether incurred by the Customer, its employees or a third party.

7.4 The liability of Ossis under any circumstance shall not exceed the original purchase price paid by the Customer for the Product giving rise to such liability.

## 8. Information

8.1 Ossis does not warrant that the Information is timely, complete or accurate. Ossis accepts no liability for any errors or omissions in the Information. Any Information provided shall not be deemed a warranty, representation or guarantee concerning a Product's suitability or fitness for a Customer's specific purpose. The Information shall not expand Ossis' obligations under this warranty. The Information shall not constitute a warranty that the Customer will derive any particular benefits from the Products. It is the Customer's responsibility to determine the suitability of the Products for its own use. The Customer must use its own independent judgment and assessment and should not rely on any opinions, interpretations, statements, assurances or representations in the Information or otherwise.

8.2 Although the Information may include surgical techniques and Product usage guidelines, Ossis cannot know the actual condition of a given patient nor the countless other variables that relate to the proper diagnosis and treatment of such patient. For that reason, the Customer shall not rely upon any Information provided by Ossis but shall rely, instead, on its own professional judgment.

## 9. No Sale by Description or Sample

9.1 Subject to clause 9.2 Ossis does not warrant that the Products conform to any specific design or sample. Ossis reserves the right to alter its Product dimensions, drawings, specifications, designs, materials components and construction methods. Ossis may do so without notice. Any such alterations shall not impose on Ossis an obligation

to alter Products that Ossis has already delivered to the Customer.

- 9.2 Clause 9.1 shall not apply in circumstances where the Customer has (a) furnished its own specifications and information in order for Ossis to develop and manufacture a Custom Product; and (b) it is an express condition of sale that Ossis manufacture the Custom Product to conform to the Customer's specifications and information.

#### **10. Representations**

- 10.1 Ossis' staff, agents and representatives have no authority to make any representations, statements, warranties, conditions or agreements that conflict with this warranty, unless made in writing and signed by a duly authorized officer of Ossis. Any such unauthorized representations, statements, warranties, conditions or agreements shall not bind Ossis nor form part of any contract between the Customer and Ossis.

#### **11. Local Law**

- 11.1 Some jurisdictions do not allow limitations or disclaimers of implied or statutory warranties. Some jurisdictions do not allow disclaimers or exclusions of consequential or incidental damages. Therefore, the above disclaimers, limitations and exclusions may not apply in certain jurisdictions in which Ossis sells the Products. As to such jurisdictions, this warranty shall be deemed modified, and the offending clauses amended or removed, but only to the extent necessary to bring them into conformity with the laws therein.
- 11.2 The invalidity of any clause shall not affect the validity of any other clause.
- 11.3 This warranty gives the Customer specific legal rights. The Customer may have other rights or remedies pursuant to the laws in its territory.
- 11.4 Nothing in this limited warranty should be construed as limiting or restricting any other statutory right or remedy of the Customer, except for such limitations or restrictions herein as may be allowed by the law of the territory.

#### **12. Severability**

- 12.1 Where there is a conflict between a clause in this Warranty and a mandatory provision of law, the mandatory provision shall prevail. The clause in conflict with such mandatory provision shall be deemed severed from this warranty but the balance of this Warranty shall continue in full force and effect.
- 12.2 Where there is a conflict between a clause in this Warranty and a provision of law which is expressed to be subject to any contractual provision to the contrary, or which may be altered or overridden by a contract, such clause in this Warranty shall prevail.

#### **13. Governing Law**

- 13.1 New Zealand law shall govern this Warranty. The Customer submits to the non-exclusive jurisdiction of New Zealand courts.

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