

TERMS AND CONDITIONS OF SALE

NOTICE TO BUYER:

Icare Medical Group ("Seller") hereby certifies that these goods were produced in compliance with all applicable requirements of Sections 6, 7 and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the U.S. Department of Labor issued under Section 14 thereof.

1. OFFER AND ACCEPTANCE

Icare Medical Group's electronic commerce websites constitute offers for the sale of products and the provision of services for your applicable Icare Medical Group product (The "Offer"). An order or request is properly entered through the applicable website, or any other form of acceptance that we receive from you, shall result in a contract for the purchase of requested products or services on the applicable terms and conditions. Icare Medical Group's "Terms and Conditions of Sale" govern your product orders. Prices of certain items or components of your order may be unavailable due to technical reasons at the time of order submission. If you include these items in your cart at the time of checkout, our standard eCommerce prices will be assigned to the items automatically. Should any other components of your order (shipping & handling, tax, etc.) be unavailable at the time of order submission, the applicable charges will be added upon order processing.

You shall be deemed to have accepted all the applicable terms and conditions except those to which you have specifically objected. You are required to set forth each objection to the applicable terms and conditions in writing, signed and dated by you and delivered to us prior to or contemporaneous with your order or request. Our failure to object to provisions in any communication shall not be a waiver of any applicable terms and conditions, nor an acceptance by us of any such provisions. Any terms proposed by you which are different from or additional to the applicable terms and conditions on our websites are hereby rejected unless specifically accepted by us in a separate document signed by both you and us, regardless of whether such other terms would materially alter the terms hereof. No course of dealing, custom or usage which is contrary to the applicable terms and conditions shall apply.

Icare Medical Group reserves the right to correct any typographical or clerical errors in prices, specifications, or acknowledgements.

2. PRODUCTS OR SERVICES SUBJECT TO SALE

The products or Services subject to this sale shall be limited to those described in the Offer. They do not include, and Customer assumes responsibility for (A) any set-up, installation, and start-up (B) safety equipment used with the Products or Services or by Customer's employees or any third parties in handling or working with the products; and (C) signs, plaques, and training related to the proper use of the Products.

3. FINANCIAL CONDITION

At Seller's request, Customer will furnish sufficient information to enable Seller to access Customer's creditworthiness. The Seller may, in its discretion, require full or partial payment in advance.

4. PRICES

A. Prices are subject to change without prior notification

B. Prices are based on U.S. dollars and are F.O.B point of shipment. Prices do not include freight or delivery charges or taxes (sales, excise, use, ad valorem, etc.) or any export or import duties. Those charges may be prepaid by Seller and added to Customer's invoice.

5. SHIPMENT, DELIVERY AND INSPECTION

A. Seller shall select the method and carrier for delivery of all Products. Title and risk of loss or damage to the Products shall pass from Seller to Customer upon delivery to carrier at the point of shipment.

B. Any shipment, delivery or performance date stated in the Offer or other contract document is approximate only and does not constitute any guarantee of shipment, delivery or performance on any date.

C. Time shall not be the essence of this agreement.

6. PAYMENTS, TITLE, AND SECURITY INTEREST

A. All payments shall be made at the time of sale, or if the purchase is made through a purchase order, within 30 days of the date of Seller's invoice. All payments shall be in United States currency and shall be without deductions for back-charges, other accounts between Seller and Customer, and the like, which shall be settled independently of the payment of the invoice. Payment shall not prejudice claims on account of omissions or shortages in shipment, but no such claim will be allowed unless made within 96 hours after receipt of the applicable shipment by Customer.

B. Should Customer delay payment beyond the date it is due, interest may be charged on the unpaid balance at the rate of two (2%) percent per month.

7. DELAYS

A. Seller shall not be liable for loss, damages, or non-performance resulting from delays in receipt of final specifications or instructions from Customer, changes in specifications, force majeure, including but not limited to strikes, labor disturbances, material shortages, non-manufacturing conditions, delays or failures of carriers or communication, epidemics, fire flood, storms, accident, riot, acts of terrorism, war and invasion, governmental requisition or priorities, acts of God, or other causes beyond Seller's reasonable control.

B. In such event, the delivery date shall be extended for a period equal to the time lost by reason thereof, or Seller at its option may cancel the delivery and refund any amounts paid by Customer, as Customer's sole and exclusive remedy. Seller shall undertake to notify the Customer promptly of any significant delay and will specify the revised delivery date as soon as practical. **IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, CONCEQUENTIAL, OR SPECIAL DAMAGES ARISING OUT OF A DELAY IN, CANCELLATION OF, OR FAILURE TO DELIVER OR MANUFACTURE.**

C. If shipment is delayed or extended by Customer, Customer shall arrange for and notify Seller of the place or places to which Seller shall ship the Products covered by the order for warehousing or storage at Customer's expense and all risk of loss or damage to the Products or Services shall be borne by Customer. If the Customer is unwilling or unable to promptly arrange for warehousing or storage facility, the Seller may do so at Customer's expense. Customer hereby agrees to pay all storage charges so incurred and Seller's invoice, which shall issue upon shipment of Products to the place of storage.

8. CANCELLATION

Cancellation or suspension of the order by the Customer after acceptance by the Seller may be made only on terms which will compensate Seller for loss due to the cancellation. Customer may cancel order 24 hours after Seller confirms order by giving written notice of cancellation to Seller. Customer may cancel after shipment only if Products are re-salable and Customer pays restocking, shipping, and handling charges as reasonably determined by Seller.

9. PRODUCT DESIGN

Seller reserves the right to make changes and improvements in the design and specifications of its Products without notice or obligation to Customer.

10. WARRANTY AND DISCLAIMERS

A. Seller warrants that its consumable products comply with Seller's specifications. This warranty shall run for a period of 30 days from the date of shipment, unless the product is subject to an expiration date, in which case, the expiration date shall apply. Seller's warranties do not apply to damage resulting from unauthorized installation, accident, casualty, alteration, misuse, or failure to follow seller's written instructions. **ENTIRE WARRANTY: SELLER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND SELLER EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED. THE SELLER SHALL HAVE NO OTHER LIABILITY, DIRECT OR INDIRECT, OF ANY KIND, INCLUDING LIABILITY FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES.**

B. Customer's sole and exclusive remedy for breach of the foregoing warranties shall be the repair or replacement of the defective Product, or, at the Seller's option, a refund of the purchase price; provided (1) the Product has not been altered or modified by other than Seller, (2) it has been properly stored, installed, maintained and operated within the limits specified by Seller, and (3) Customer promptly sends to Seller notice of defect and satisfactory proof thereof, including allowing Seller the opportunity to inspect the Products, and in the event of repair or replacement, returns the product to Seller, freight prepaid. Defective parts replaced Seller shall become the property of the Seller. Repaired or replacement parts will be shipped to the Customer FOB point of shipment.

C. If the product sold is not manufactured by the Seller, the Seller will extend to the Customer the same warranty protection Seller received from the original manufacturer.

D. Seller is not responsible for any charges relating to warranty work or product replacement that have not been authorized by Seller in writing.

E. NEITHER SELLER NOR CUSTOMER SHALL BE LIABLE TO THE OTHER FOR SPECIAL OR CONSEQUENTIAL DAMAGES OR FOR DAMAGES FOR LOSS OF USE ARISING DIRECTLY OR INDIRECTLY FROM ANY BREACH OF CONTRACT, MATERIAL OR OTHERWISE, OR FROM ANY TORTIOUS ACTS OR OMISSIONS OF THEIR RESPECTIVE EMPLOYEES OR AGENTS, AND IN NO EVENT SHALL THE LIABILITY OF SELLER EXCEED THE PRICE OF THE DEFECTIVE PRODUCT OR OF THE PRODUCT SUBJECT TO LATE DELIVERY. If Seller, without separate compensation therefor, furnishes the Customer with advice or other assistance concerning any product supplied hereunder or any system or equipment in which any such product may be installed may be installed which is not required hereunder, the furnishing of such advice or assistance will not subject the Seller to any liability whether in contract, tort (including negligence and strict liability) or otherwise.

Icare holds full stock of parts for warranty and service, however the Customer/Dealer is responsible for replacing parts and servicing equipment.

11. PATENTS, TRADEMARKS, COPYRIGHTS, AND SOFTWARE

A. Seller warrants that Products shall be delivered free of any rightful claim for infringement of any United States patent, trademark, or copyright.

B. If Seller is notified promptly in writing of any claim of infringement, Seller will defend or may settle at its expense any such claim. Seller shall pay all damages and costs awarded against Customer due to breach of this warranty; provided, however, that Customer must cooperate with Seller in the defense of any claim. Seller shall, at expense and option, either procure for the Customer the right to continue using any infringing Products or replace or modify them so they become non-infringing or remove the Products and refund the purchase price (less reasonable depreciation for any period of use). The foregoing states the entire liability of Seller for patent, trademark, or copyright infringement by Products or any part thereof.

C. The preceding representations shall not apply to any Product specified by Customer or manufacturer to Customer's design, or to the use of any Product furnished hereunder in conjunction with any other item in a combination not furnished by Seller as a part of this transaction. As to any such item, part, or use in such combination, Seller shall have no liability whatsoever for patent, trademark or copyright infringement and Customer will indemnify Seller and hold Seller harmless against any claims, liability, damages, or expenses, including reasonable attorney fees, because of infringement claims arising therefrom.

12. DISCLOSURE INFORMATION

Any information, suggestions or ideas given by the Customer to the Seller in connection with Seller's performance hereunder are not secret or submitted in confidence, except as may be otherwise provided in writing, signed by Seller.

13. ASSIGNMENT

No right accruing to the Customer by virtue of the manufacturer/purchaser relationship between Seller and the Customer nor any duty of Seller resulting from that relationship shall be assignable without Seller's prior written consent.

14. SEVERABILITY

The invalidity of any provision of Seller's Terms shall not affect the validity of any other provision hereof and any invalid provision shall be severed from the valid provisions.

15. NON-WAIVER

No failure by Seller to exercise any right accruing to it by virtue of the manufacturer/purchaser relationship or under any contract of sales entered with the Customer shall operate as a waiver thereof or preclude the exercise of any other right or privilege by Seller.

16. ENTIRE AGREEMENT AND AMENDMENTS

There are no other Terms and Conditions applicable to the purchase and sales of Seller's Products other than those contained in the Offer (including any specifications or other documents incorporated by reference in the Offer). No modification, amendment, waiver, or other change of any provision of Seller's Terms shall be binding on Seller without Seller's written consent.

17. GOVERNING LAWS; REMEDIES

A. The rights and obligations of the Customer and Seller, and the construction and effect of any contract formed between them shall be governed by the laws of the State of Delaware.

B. If the Customer fails to fulfill their terms of payment of any invoice or if the financial or business condition or responsibility of the Customer shall become impaired or unsatisfactory to the Seller, Seller may, without liability to Customer or prejudice to any other legal or equitable remedy, suspend performance until past due payments are made and satisfactory assurance of payment is received.

18. OPERATING DIRECTIONS

A. Customer shall comply with and require its agents and employees to comply with all directions, safety notices, warnings, and other instructions furnished by Seller, and shall use and require its agents and employees to use reasonable care in the use of the Products.

B. SELLER SHALL HAVE NO OBLIGATION OR LIABILITY FOR ANY FAILURE OF CUSTOMER, CUSTOMER'S EMPLOYEES, AGENTS, OR ANY THIRD PARTY TO OBSERVE THE PROVISIONS OF THIS SECTION, OR FOR ANY INJURY OR DAMAGE CAUSED, IN WHOLE OR IN PART, BY CUSTOMER'S FAILURE TO COMPLY WITH APPLICABLE FEDERAL, STATE, OR LOCAL SAFETY REQUIREMENTS AND CUSTOMER SHALL INDEMNIFY AND HOLD SELLER HARMLESS FOR ANY CLAIMS, LIABILITIES OR LOSSES ARISING OUT OF OR IN CONNECTION WITH ANY SUCH INJURY OR DAMAGE OR CLAIM THEREOF.