

VENTUREMED GROUP STANDARD TERMS AND CONDITIONS

- 1. Application.** These Standard Terms and Conditions (“Terms”) are the only terms which govern the transactions between VentureMed Group, Inc., as seller, (“VMG”) and the party named on the attached purchase order, as buyer (“Customer”), with respect to all VentureMed products. These Terms will take precedence and prevail over any contrary or inconsistent terms or conditions contained in any prior or subsequent purchase order, estimate, shipment, or invoicing document of either party (collectively, “Related Purchase Documents”). Fulfillment of Customer’s order does not constitute acceptance of any of Customer’s terms and conditions and does not serve to modify or amend these Terms.
- 2. Purchase Orders.** Customer will submit (directly or through a VMG sales representative) purchase orders for the Product by mail, telephone, facsimile, or e-mail to the following address, telephone number, facsimile number and/or e-mail address: VentureMed Group, Inc., 2800 Campus Drive, Suite 50 Plymouth, Minnesota 55441; Phone: +1 (888) 248-3477; Fax: +1 (419) 558-4171; E-Mail: customerservice@venturemedgroup.com. Each purchase order shall identify the Product ordered and set forth the quantity requested, requested delivery dates, and the instructions and address for shipping or delivery. All purchase orders must be signed or authenticated by a writing/email from Customer and are subject to acceptance by VMG, which acceptance shall be confirmed by VMG’s filling the purchase order. Each purchase order, upon acceptance, shall give rise to a contract for the purchase of the applicable Product under these Terms.
- 3. Price and Payment.** All prices quoted herein or in any Related Purchase Document are subject to change without notice from VMG. VMG will invoice Customer at the time of shipment for the Product purchase price in effect as of the date of shipment and all applicable freight charges, handling, and taxes. Payment terms are net thirty (30) days unless stated otherwise on the applicable invoice. A finance charge may be assessed on all unpaid balances over thirty (30) days equal to the lesser of 1½% per month and the maximum amount allowed by law. Customer shall reimburse VMG for all collection expenses, including reasonable attorneys’ fees and expenses, incurred by VMG to secure payment of any sums due from Customer and/or to re-possess Product.
- 4. Security Interest.** Customer hereby grants to VMG a security interest in any Product not fully paid for and all proceeds therefrom, including insurer and other third-party payments as a result of any damage to or loss of said Product, to secure payment of the entire purchase price for said Product and to secure all related costs and expenses payable by Customer to VMG.
- 5. Delivery and Acceptance of Product.** All Products purchased by Customer will be shipped F.O.B. Origin from VMG’s facility. Within seven (7) days of receipt (the “Acceptance Period”), Customer will inspect the Product for conformity to the applicable purchase order. Acceptance of the Product by Customer will automatically occur upon the termination of the Acceptance Period unless Customer notifies VMG in writing, within the Acceptance Period, of the Product’s failure to conform to the purchase order. Any returns of Product within the Acceptance Period must comply with Section 8. Failure to notify VMG of such non-conformity within the Acceptance Period will result in Customer’s waiver, subject to Section 7, of its rights to any refunds or replacements based on such non-conformity. Nonconforming Products purchased with any type of finance plan may be repaired or replaced in accordance with the terms of Section 7 but are not refundable under Section 8.
- 6. Intellectual Property.** VMG retains all right, title and interest in all its intellectual property but grants to Customer a non-exclusive, non-transferable, non-sub-licensable, perpetual, limited license to such intellectual property solely for use in connection with the use of the Product. Customer has no right, title or interest in any such intellectual property and shall not copy, reproduce, reverse engineer, decompile or disassemble, in whole or in part, the Product or any component thereof. For Product labeled single use disposable, Customer has no right to re-process, re-sterilize, re-use in more than the initial patient.
- 7. Limited Warranty.** (A) VMG warrants the Products as provided in VMG’s Limited Warranty Statement, available upon request from VMG’s Customer Service at customerservice@venturemedgroup.com. (B) **EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN THE LIMITED WARRANTY STATEMENT, VMG MAKES NO WARRANTIES UNDER THESE TERMS. VMG DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND, DIRECT AND INDIRECT, EXPRESS, AND IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF SUITABILITY, WORKMANSHIP, ADEQUACY, DURABILITY, DESIGN, OPERATION OR CONDITION OF THE PRODUCTS OR ANY PART THEREOF, AND MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, TRADE USAGE OR OTHERWISE.** (C) **THE REMEDIES SET FORTH IN THE LIMITED WARRANTY STATEMENT SHALL BE CUSTOMER’S SOLE AND EXCLUSIVE REMEDY AND VMG’S ENTIRE LIABILITY FOR ANY BREACH THEREOF.**
- 8. Limitation of Liability.** **IN NO EVENT SHALL VMG BE LIABLE UNDER OR AS A RESULT OF THESE TERMS: (A) FOR ANY LOST PROFITS, LOSS OF BUSINESS, LOSS OF USE, LOSS OR CORRUPTION OF DATA OR THE LIKE; (B) FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOSSES OR SIMILAR DAMAGES OR LOSSES; AND/OR (C) IN THE AGGREGATE FOR ANY DAMAGES OR LOSSES IN EXCESS OF AMOUNTS PAID BY CUSTOMER TO VMG DURING THE SIX (6) MONTH PERIOD PRECEDING THE CLAIM. THE FOREGOING APPLIES WHETHER UNDER CONTRACT LAW, TORT LAW, WARRANTY, STRICT LIABILITY OR ANY OTHER THEORY, EVEN IF VMG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY CONSTITUTES AN ESSENTIAL PART OF THESE TERMS.**
- 9. Return Policy.** Product may be returned to VMG within forty-five (45) days of the date of invoice. To return a Product, Customer must request from VMG a Returned Materials Authorization (“RMA”). All items of the Product must be in unopened packages and may be subject to a fifteen percent (15%) restocking charge. Product that has been opened, damaged, or tampered with is not returnable for credit. The RMA number must be clearly marked on the shipping container. Product returned without an RMA number will not be accepted or considered returned.
- 10. Indemnification.** Subject to Sections 7 and 8, each party (the “Indemnifying Party”) will defend, indemnify and hold harmless the other party (the “Indemnified Party”), its affiliates, and its and their officers, directors, employees and agents from and against all losses, damages, expenses (including reasonable attorneys’ fees and expenses), claims, suits and liabilities actually incurred by the Indemnified Party to the extent caused by the off-label use of the Product (in the case of Customer) or the gross negligence or willful misconduct of the Indemnifying Party or any of its officers, directors, employees or agents.
- 11. Miscellaneous.** Customer and VMG agree to be bound by these Terms. Customer may not assign its rights or obligations under these Terms without VMG’s prior written consent and any such assignment without consent will be void. Neither VMG nor Customer is liable for failure or delay in fulfilling its obligations hereunder due to causes beyond its control except for Customer’s obligation to pay invoices. These Terms are governed by the laws of the State of Minnesota without given effect to any choice or conflict of law provision or rule. If any provision of these Terms is held invalid or unenforceable, the remainder will not be affected and will be enforced to the greatest extent permitted by law. No amendment, modification or waiver of these Terms is binding upon either party unless approved in writing by both parties. Failure or delay by either party to enforce compliance with these Terms shall not constitute a waiver hereof.