



## TERMS FOR SALE

- Additional or Different Terms.** Except in the event that buyer and seller have entered into a written agreement which, by its terms, is expressly intended to cover the sale of the products set forth herein, this instrument constitutes an offer by seller to sell the products covered by this invoice at the price and subject to all terms stated in this invoice. Buyer may not modify any terms of this offer, and seller hereby objects in advance to any additional or different terms proposed by or on behalf of buyer in any instrument requesting or confirming this invoice. Acceptance by buyer of the products covered by this invoice will constitute an express waiver by buyer of any additional or different term that it had previously proposed. Except as specifically stated herein there are no audit rights under these terms of sale. Amounts are in US dollars unless noted otherwise.
- Firm Orders.** All orders are firm once accepted.
- Delivery.** Although seller will use commercially reasonable efforts to maintain the delivery date(s) acknowledged or quoted by seller, time is not of the essence with respect to delivery and all shipping dates are approximate and not guaranteed.
- Returns.** The following terms apply to non-quality related returns of disposable/single use products: Buyer may only return products covered by this invoice for credit if the product is returned within 90 days of the invoice date, and only if seller has previously authorized that return. Buyer is responsible for all freight charges associated with any product return. A 15% restock fee applies to all returns unless the return is due solely to error by seller. No credit will be issued if the returned product is damaged or in non-saleable condition, or if the product is not returned in the original unopened packaging and as the full, original unit of sale. CAPITAL AND REUSABLE PRODUCTS MAY NOT BE RETURNED FOR CREDIT.
- Payment and Adjustments.** Payment terms are net 30 days. An interest charge of 1% per month (or the maximum rate permitted by law if less than 1% per month) will apply to payments received more than 30 days after the invoice date. Orders of less than \$500 are subject to a handling fee of \$20. If buyer believes that this invoice contains any errors, it must notify seller's customer service department no later than 30 days after the date of the invoice if it wishes to have those errors rectified. If buyer wishes to make a claim for loss or damage to any products covered by this invoice as a result of shipment, it must include a copy of the delivery receipt.
- Security Interests.** Buyer hereby grants seller a security interest in all products covered by this invoice as security for payment of all amounts due under this invoice. Buyer shall assist seller in perfecting that security interest by signing at seller's request appropriate documents (including without limitation Form UCC-1 financing statements) and cooperating with seller (at seller's expense) in taking any further actions reasonably necessary to perfect that security interest. Buyer's nonpayment of any amounts due under this invoice, will entitle seller to all remedies of a secured creditor under the Uniform Commercial Code.
- Option to Accelerate.** Seller may by written notice to buyer demand that buyer immediately pay all amounts due under this invoice if seller believes in good faith that the prospect of buyer paying those amounts has been impaired. By accepting the products covered by this invoice, buyer is representing that it is not then insolvent within the meaning of Title 11, United States Code, or any similar federal or state law.
- Taxes.** In addition to the invoiced price, buyer shall pay any tax, duty or other fee imposed on this transaction by any federal, state, or local governmental authority. If seller is required to prepay any such tax, duty or other fee, buyer will reimburse seller the amount of that tax, duty, or other fee.
- Cost Reporting.** Buyer acknowledges that it is required by law to disclose, in any cost reports or claims for reimbursement submitted to Medicare, Medicaid, or certain other health care programs, the cost (including, but not limited to, any discounts, rebates or other price concessions) of any product covered by this invoice and on request, provide to the U.S. Department of Health and Human Services and any state agencies any invoices, coupons, statements, and other documentation reflecting such costs. Buyer may receive subsequent documentation under some programs reflecting adjustments or allocations to the price available hereunder. In preparing any cost reports, buyer may be required to evaluate as a discount the value of any product listed as \$0.00 on any invoice. Buyer should not include as a discount for cost-reporting purposes the value of any item that is designated as a sample or that buyer knows constitutes a sample, and it should not seek reimbursement for any such items. Seller recommends that buyer retain a copy of this invoice and any other documentation provided by seller regarding any price concessions under this invoice. Buyer may request additional information from seller to meet buyer's reporting or disclosure obligations, by writing to the address on the reverse side.
- No Resale.** The products covered by this invoice are intended for buyer's own use in the United States and are not for resale unless buyer is seller's authorized distributor.
- Product Shortages.** Seller is not liable for any delay in any delivery, including but not limited to delays due to product shortages, acts of nature, war, terrorism, regulatory or carrier issues, or any circumstance beyond its reasonable control.
- Single-Use Products.** Buyer shall ensure that units of any patented Single-Use Product that it purchases are used once and only once in delivering patient care and seller conveys no right in such patented Single-Use Product other than the right to use those units once and only once. A "Single-Use Product" means any product that is labeled "For Single Use" or "Single Use Only" or "Do Not Reuse" or otherwise labeled to indicate that the product is to be used once and only once in delivering patient care. Seller does not grant buyer or any other person or entity any license to reprocess, remanufacture, or reconstruct any patented Single-Use Product. In addition to other available remedies, the sale or use of any reprocessed, remanufactured or reconstructed patented Single-Use Product will be subject to available remedies for patent infringement.
- Distributor Chargebacks (applies to distributors only).** Seller pays chargebacks to distributors only for products purchased directly from seller located in the U.S. and sold to end users located in the U.S. who are entitled by contract with seller to a price below distributor list price. By accepting a chargeback, buyer represents that it qualifies for the chargeback and agrees that seller on reasonable notice and during normal business hours, may audit buyer's records to confirm that it qualified for the chargeback.
- Deductions.** Buyer should identify the reason for any deductions; seller will deny and not accept any unidentified deductions
- Warranties.** Any warranties and exclusions provided by seller with respect to any product covered by this invoice are as described in the package inserts accompanying units of that product on purchase. OTHER THAN AS SET FORTH IN THE PREVIOUS SENTENCE, THERE IS NO IMPLIED OR EXPRESS WARRANTY ON THE PRODUCTS COVERED BY THIS INVOICE, INCLUDING THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.
- Remedies; Limitation of Liability.** Buyer's sole and exclusive remedy for any breach of warranty shall be repair or replacement of the product after seller determines it to be defective. IT IS UNDERSTOOD AND AGREED THAT SELLER'S LIABILITY HEREUNDER OR IN CONNECTION WITH THE MANUFACTURE, SALE, OR USE OF THE PRODUCTS DESCRIBED HEREIN, HOWSOEVER ARISING, SHALL NOT EXCEED THE AMOUNT OF THE PURCHASE PRICE PAID BY BUYER FOR SUCH PRODUCT.
- Dispute Resolution.** Buyer and seller shall resolve any dispute arising out of or relating to this invoice by arbitration administered by the AAA and conducted before a single arbitrator in accordance with the AAA's Commercial Arbitration Rules then in effect. The arbitration must be conducted in Ohio. The arbitrator must interpret any dispute arising out of or relating to this invoice in accordance with the laws of Ohio, without giving effect to its choice of law principles. THE ARBITRATOR WILL NOT AWARD PUNITIVE, COVER, EXEMPLARY, MULTIPLIED, OR CONSEQUENTIAL DAMAGES OR ATTORNEYS' FEES OR COSTS, AND BUYER AND SELLER IRREVOCABLY WAIVE ANY RIGHT TO SEEK OR COLLECT ANY SUCH DAMAGES, FEES, OR COSTS IN ARBITRATION OR ANY JUDICIAL PROCEEDING. BUYER AND SELLER EACH IRREVOCABLY WAIVES ITS RIGHT TO TRIAL OF ANY ISSUE BY JURY. Buyer and seller shall submit to any court of competent jurisdiction for purposes of enforcement of any award, order, or judgment in any arbitration brought under this section. Any such award, order, or judgment will be final and may be entered and enforced in any court of competent jurisdiction.
- US Export Law.** The export or re-export of the products shall be governed by the laws of the United States. Buyer agrees to comply with all applicable export laws, regulations and requirements. Buyer agrees to be contractually obligated to the export laws of the United States including the Export Administration Regulation.

Devicor® Medical Products, Inc. | 300 E-Business Way | Fifth Floor | Cincinnati, OH 45241  
Phone: 513.864.9000 | Fax: 513.864.9011 | www.devicormedical.com | MDM#13-0031 Rev 7/13

THIS DOCUMENT CONTAINS CONFIDENTIAL AND PROPRIETARY INFORMATION OF DEVICOR MEDICAL PRODUCTS, INC. ITS CONTENTS MAY NOT BE DISCLOSED BY AN AUTHORIZED RECIPIENT WITHOUT DEVICOR MEDICAL PRODUCTS, INC.'S PRIOR WRITTEN CONSENT.