

Shockwave Medical, Inc.
Standard Terms and Conditions of Sale

1. Terms and Conditions. All sales made by Shockwave Medical, Inc. (“Shockwave”) to the customer (“Customer”) for items listed on the Customer’s purchase order, Order Form or other purchasing document (the “Products”) are expressly conditioned on Customer’s acceptance of these terms and conditions. Shockwave will not be bound by any terms of Customer’s purchase order or other document that are additional or inconsistent with these terms and conditions, and all such terms shall be excluded.

2. Delivery, Shipping, and Risk of Loss. Shockwave will promptly fulfill Customer’s purchase order and will ship Products by two-day delivery unless Customer requests overnight delivery and pays such costs. Products will be shipped FCA Shockwave’s facility or fulfillment center, at which time risk of loss and title to the Products will pass to Customer. Customer will inspect all shipments of Products promptly upon delivery. If Customer fails to notify Shockwave of its rejection of any Products within three (3) days after receipt, Customer will be deemed to have accepted the Products. For Products delivered by a Shockwave representative in the field to Customer’s facility (“Trunk Stock”), risk of loss and title to Product occurs at the time of delivery by the Shockwave sales representative.

3. Price. Prices for Products shall be Shockwave’s standard list price unless otherwise specified in the applicable quote, if any (“Purchase Price”). Shockwave may revise Purchase Prices upon thirty (30) days’ advance written notice to Customer unless otherwise provided in the applicable quote. Price changes will apply to all purchase orders received after the effective date of the price revision.

4. Disclosure of Discounts. In accordance with the discount provisions of the federal anti-kickback statute, 42 U.S.C. § 1320a- 7b(b) and the discount safe harbor regulations at 42 C.F.R. § 1001.952(h), Customer shall fully and accurately report all prices paid net of discounts where appropriate, and as appropriate, under any applicable payer reimbursement requirements and provide information upon request to Medicare, Medicaid and other federal health care programs on all discounts and price reductions received from Shockwave.

5. Payment Terms. Payment terms shall be net thirty (30) days after the date of Shockwave’s invoice. Late payments are subject to a service charge equal to the lesser of one percent (1.5%) per month or the maximum rate permitted by law. Customer is responsible for payment of all taxes however designated, levied, or based, but exclusive of taxes based on Shockwave’s net income, unless Customer provides Shockwave with a certificate of tax exemption.

6. Use of Products. Only licensed and trained individuals may use the Products. Customer shall not modify the Products, and any modifications to the Products shall become Shockwave’s sole property. Customer agrees to use the Product in accordance with all applicable laws, regulations and Shockwave user manuals and guidelines and solely for their intended applications. Customer agrees to document and provide to Shockwave all patient or user complaints regarding the Products.

7. Support Services. Upon Customer’s request, Shockwave will make reasonable efforts to provide Customer with technical support or training services with respect to the Products free of charge so as to help ensure their safe and effective use (“Services”). Shockwave’s provision of Services shall not: (a) alter or otherwise affect the legal, ethical, or professional relationships between and among Customer and its patients; or (b) include any activities that would constitute the practice of professional medical services. Customer agrees to be solely and exclusively responsible for the provision of professional medical services. Customer further agrees and acknowledges that Shockwave’s provision of Services does not render Shockwave a Business Associate, consistent with 45 CFR § 164.506(c)(1).

8. Substitutions. Shockwave reserves the right to substitute a new Product identified by a different catalog number that that has different or modified specifications or composition, provided that the overall performance of the Product is not materially affected. IVL Generators may be new, reconditioned or remanufactured, but all IVL Generators will meet the same technical specifications and performance characteristics as new IVL Generators described in the operator’s manuals.

9. Ownership, No Implied License. Shockwave retains all proprietary rights in and to all designs, engineering details, and other technology and information pertaining to the Products. The sale of Products ordered hereunder does not grant to, convey or confer upon Customer or Customer’s customers, or upon anyone claiming under Customer, a license, express or implied, under any patent right, copyright, or other intellectual property right of Shockwave covering or relating to any use other than is consistent with the labeling or instructions for use thereof.

10. Limited Warranty/Limited Remedy (Catheters and Sterile Sleeves). Shockwave warrants to Customer that the Products are free from defects in workmanship and materials and conform to Shockwave’s published specifications in all material respects for the shelf life set forth on the original packaging. These warranties are contingent upon proper use of the Products in an application and individual for which it is intended and do not apply to any Product that is subjected to unusual physical or electrical stress, misuse, neglect, improper testing or storage, or modification. Shockwave’s entire liability and Customer’s exclusive remedy is limited to replacement of such Products.

11. Limited Warranty; Limited Remedy (IVL Generators and Connector Cables). Shockwave warrants to Customer that the IVL Generators and Connector Cables will function in accordance with Shockwave’s published specifications for a period of three (3) years from the date of delivery. This warranty does not cover defects caused by unusual physical or electrical stress, misuse, neglect, improper testing or storage, or modification. Shockwave’s entire liability and Customer’s exclusive remedy with respect to IVL Generators and Connector Cables is limited to repair (or, at Shockwave’s option, replacement) of the defective equipment. To be eligible for repair, Customer must notify Shockwave in writing of the need for repair. At Shockwave’s option, upon reasonable notice, Shockwave may replace the IVL Generators and Connector Cables with upgraded or otherwise modified versions with at least equal functionality.

12. Disclaimer of Warranties. EXCEPT FOR THE LIMITED WARRANTIES STATED IN SECTIONS 10 AND 11, THE PRODUCTS AND SERVICES ARE PROVIDED WITHOUT ANY OTHER WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. SHOCKWAVE SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

13. Intellectual Property Indemnification. Shockwave shall defend and/or settle all suits against Customer if and to the extent based on any claim that the Products infringe any U.S. patent or copyright. Shockwave will pay damages finally awarded against Customer in such suits, provided, that Customer: (a) promptly notifies Shockwave of such suits; (b) gives Shockwave sole control over the defense and/or settlement of the same; and (c) reasonably assists Shockwave in such suits. Notwithstanding the above, Shockwave shall not be obligated to defend, indemnify or be liable for costs and damages if the infringement arises out of: (i) Customer's contributory infringement; (ii) the combination of Product(s) with any other products, or (ii) any use for a purpose or application for which the Product is not indicated. If Customer's use of the Products is or may be enjoined, Shockwave may, at its option and expense, either: (x) secure for Customer the right to continue using the Products by procuring appropriate license rights; (y) replace the Products with non-infringing products of at least equivalent functionality and performance; or (z) remove the enjoined Products and refund Customer the Purchase Price paid by Customer. THE FOREGOING STATES SHOCKWAVE'S ENTIRE LIABILITY AND OBLIGATION (EXPRESS, STATUTORY, IMPLIED OR OTHERWISE) WITH RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT OR CLAIMS.

14. Compliance with Laws. Customer agrees to comply with all applicable provisions of any federal, state, provincial or local law or ordinance and all lawful orders, rules, and regulations issued thereunder, including without limitation, those dealing with the environment, health, data privacy, and records retention, including environmental laws, rules, and regulations relating to the proper use and disposal of the Products.

15. Customer Indemnification. Customer shall defend, indemnify, and hold harmless Shockwave, its officers, directors, employees and agents from and against any liability, damage, loss, or expense (including reasonable attorneys' fees and expenses of litigation) in connection with any third-party claims arising out of or relating to Customer's use of the Products, or its gross negligence, willful misconduct, breach of these terms or breach of applicable laws, except to the extent proximately caused by Shockwave's gross negligence or willful misconduct.

16. Insurance. Customer shall procure and maintain in force commercial general liability insurance including property damage, bodily injury, products liability and contractual liability, in the minimum amount of \$1,000,000 per occurrence and \$3,000,000 in the aggregate to cover Customer and Shockwave for any liability related to the use of Shockwave's Products.

17. Limitation of Liability. IN NO EVENT SHALL SHOCKWAVE BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF, OR RELATING TO, OR IN CONNECTION WITH THE PRODUCTS OR SERVICES, REGARDLESS OF: (A) WHETHER SUCH DAMAGES WERE FORESEEABLE; (B) WHETHER CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH CUSTOMER'S CLAIM IS BASED. THIS LIMITATION OF LIABILITY SHALL APPLY EVEN IF CUSTOMER'S REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE. Each party acknowledges and agrees that the limitations of liability set forth herein reflect an allocation of risk and form an essential basis of the bargain between the parties. In no event will Shockwave's liability arising out of or related to the sale of the Products or the performance of the Services exceed the purchase price of the Products.

18. Miscellaneous. These terms and conditions contain the entire agreement and understanding between the parties on the subject of the sale of the Products. No representations or statements, other than those expressly set forth herein, were relied upon by the parties. No modification or waiver of, addition to, or deletion from, these terms and conditions shall be effective unless reduced to writing and signed by duly authorized representatives of the parties hereto. These terms and conditions shall be governed by and interpreted in accordance with the laws of the State of California, U.S.A. without reference to conflicts of law principles. Any dispute arising out of these terms and conditions shall be brought in the state or federal courts within Santa Clara County, California. Failure or delay by either party in exercising any right hereunder shall not operate as, or be deemed a waiver of such right or of any other right hereunder, except for violations which, after discussion and mutual agreement by the parties, are waived in writing. Except for payment obligations, neither party shall be liable for damages for any delay arising out of causes beyond their reasonable control, including without limitation acts of God, labor disputes, riots, wars, or component shortages. If any provision of these terms and conditions is held to be invalid or unenforceable, the remainder of these terms and conditions shall continue in full force and effect and will be interpreted to reflect the original intent of the parties.