

STANDARD TERMS AND CONDITIONS OF SALE
(Order Acknowledgment/Invoice)

Acceptance. THOMAS MEDICAL'S ACCEPTANCE OF CUSTOMER'S PURCHASE ORDER IS EXPRESSLY MADE CONDITIONAL ON CUSTOMER'S ACCEPTANCE OF THE FOLLOWING TERMS AND CONDITIONS OF SALE, WHICH ARE IN LIEU OF ANY ADDITIONAL OR DIFFERENT TERMS CONTAINED IN CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT OR COMMUNICATION PERTAINING TO CUSTOMER'S ORDER OR THE GOODS. CUSTOMER'S ASSENT TO THE TERMS AND CONDITIONS CONTAINED IN THIS DOCUMENT SHALL BE CONCLUSIVELY PRESUMED FROM CUSTOMER'S ACCEPTANCE OF ALL OR ANY PART OF THE GOODS OR FROM PAYMENT BY CUSTOMER FOR ALL OR ANY PART OF THE GOODS. NONE OF THESE TERMS AND CONDITIONS MAY BE ADDED TO, MODIFIED, SUPERCEDED OR OTHERWISE ALTERED, EXCEPT BY A WRITTEN INSTRUMENT SIGNED BY AN AUTHORIZED EXECUTIVE OF THOMAS MEDICAL. FAILURE OF THOMAS MEDICAL TO OBJECT TO ANY TERMS OR CONDITIONS WHICH MAY BE CONTAINED IN ANY DOCUMENT OR FORM OF CUSTOMER SHALL NOT BE CONSTRUED AS A WAIVER OF THESE CONDITIONS, NOR AS AN ACCEPTANCE OF ANY SUCH TERMS AND CONDITIONS.

Payment Terms. Payments are to be made in U.S. funds. Payment terms are net thirty (30) days from the date of this invoice. Any payments not made within thirty (30) days of the date of this invoice shall be subject to a late payment charge of 1 / % per month (compounded) on the unpaid balance of any amount then passed due.

Taxes and Duties. The quoted purchase price may be increased to the extent that Thomas Medical's cost of the product sold hereunder may be increased as a result of any agreements, codes, or legislative enactments made or enacted pursuant to federal, state or municipal legislation. In addition to paying the quoted purchase price, Customer is solely liable for any excises, levies, duties, or taxes which Thomas Medical may be required to pay or collect, under any existing or future law, upon or with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the goods covered hereby, and Customer agrees to pay the amount thereof on the same terms as it shall pay the quoted purchase price. If Customer is exempt from sales tax, it must submit to Thomas Medical an appropriate exemption certificate.

Warranty. Thomas Medical warrants that its proprietary equipment, if properly used, is 100% covered for any failures in material or workmanship for the full shelf life of the product. If the Thomas Medical proprietary equipment fails within the warranty period, Thomas Medical will replace the product at no charge. This warranty is limited to items manufactured by Thomas Medical. This limited warranty does not cover damages due to external causes including accidents, usage not in accordance with product instructions, neglect, and/or device alteration. If the product is altered in any way, Thomas Medical retains the right to refuse any warranty on the product. Third party items (those items which are not proprietary to Thomas Medical) are subject to their own warranties and are not covered under this Warranty.

THE FOREGOING WARRANTY IS THOMAS MEDICAL'S SOLE WARRANTY WITH RESPECT TO THESE GOODS. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. THOMAS MEDICAL'S LIABILITY TO CUSTOMER, WHETHER IN CONTRACT, IN TORT, UNDER ANY WARRANTY, IN NEGLIGENCE OR OTHERWISE, SHALL NOT EXCEED IN ANY CASE THE REPLACEMENT OF PRODUCT OR RETURN OF THE AMOUNT OF THE PURCHASE PRICE PAID BY CUSTOMER AND UNDER NO CIRCUMSTANCES SHALL THOMAS MEDICAL BE LIABLE FOR SPECIAL, IN DIRECT OR CONSEQUENTIAL DAMAGES. THE PRICE STATED FOR THE GOODS IS CONSIDERATION FOR LIMITING THOMAS MEDICAL'S LIABILITY. WITHOUT LIMITATION OF THE FOREGOING, IN NO EVENT WILL THOMAS MEDICAL BE RESPONSIBLE OR LIABLE FOR (A) PENALTIES OR PENALTY CLAUSES OF ANY DESCRIPTION, OR (B) INDEMNIFICATION OF CUSTOMER OR OTHERS FOR COSTS, DAMAGES OR EXPENSES ARISING OUT OF OR RELATED TO THE GOODS.

Returns. Non-warranty related returns are accepted for sixty (60) days from the date of delivery provided they are accompanied by a Return Materials Authorization (RMA). All returns are subject to a 25% restocking fee. All returns require an RMA and the goods must be returned in the same box(es) they were delivered in. Items returned without an enclosed RMA will be refused and returned to their sender. All RMAs are valid for a period of 30 (thirty) days from the date of issue and items returned with an expired RMA will not be accepted. Please retain all shipping packages as all returns must be made in original Thomas Medical packaging. Please call 800.556.0349 to receive an RMA.

All returns containing an authorized RMA will be inspected by our internal Quality Department in a timely manner. Thomas Medical will report the results of the quality inspection to Customer prior to any additional action being taken by Thomas Medical. Thomas Medical issues credits for future purchase of merchandise only. Thomas Medical does not accept returns on any sterile product where less than 2/3 of sterile shelf life remains.

Shipment. All orders received prior to 1:30 PM EST (-5 GMT) will be shipped the same day when inventory is available. Orders received after that time will be shipped the following business day. All domestic orders are shipped via FedEx Ground. In many cases rush

shipments including Overnight, 2nd Day, and 3rd Day are available at an additional cost. All international orders are shipped via FedEx best way and will carry the standard incoterm Ex-Works Indianapolis, Indiana USA. All shipping and handling costs are billed to the customer unless prior arrangements have been made. It is the Customer's responsibility to provide a freight account number if other shipping methods are desired.

NOTE: If a product packaging arrives damaged, DO NOT sign for or accept delivery of the shipment unless the carrier's agent details the type and extent of the damage. Please notify Thomas Medical immediately (800.556.0349) and we will file the claim. All claims must be made within ten business days; after which neither FedEx nor Thomas Medical are liable. If the product damage is not visible until the box is opened, please follow the same procedure.

Security Interest. Shipments, deliveries and performance of work by Thomas Medical shall at all times be subject to the approval of and requirements of the credit department of Thomas Medical. Thomas Medical retains a purchase money security interest in all Goods, notwithstanding that the goods have been delivered to Customer, until Customer has completed payment of the purchase price, plus accrued interest, if any, and fully performed all of the terms and conditions hereof. Customer hereby authorizes Thomas Medical to execute and file financing statements describing the Goods, and other document which may be requested by Thomas Medical to evidence its security interest.

Cancellation. Orders accepted by Thomas Medical are subject to cancellation by Customer only upon the express written consent of Thomas Medical. Upon such cancellation and consent, Thomas Medical shall cease work and hold for Customer all completed and partially completed articles and work in progress and Customer shall pay Thomas Medical: for all work and materials that have been committed to and/or identified to Customer's order plus a cancellation charge as prescribed by Thomas Medical, in addition to a reasonable profit to Thomas Medical on the entire contract.

Governing Law. Any agreement arising out of this transaction shall be deemed to have been made in Indianapolis, Indiana, Marion County. The parties agree that the validity, interpretation and performance of any agreement arising out of this transaction shall be governed by the laws of the State of Indiana without regard to conflicts of interest laws. Customer and Thomas Medical hereby submit to the exclusive jurisdiction for the resolution of any disputes hereunder, to the courts located in Marion County, Indiana. This shall be the sole and exclusive jurisdiction and venue for the purpose of adjudication of any rights and liabilities hereunder.

Default. In the case of default or breach by Customer in the performance of any or all of the provisions of this agreement, Thomas Medical may cancel any outstanding order from Customer and declare all obligations immediately due and payable, and shall in addition have all remedies afforded by the Uniform Commercial Code as enacted in Indiana, and any other applicable law. Customer shall in addition, be liable for Thomas Medical's expenses incurred in exercising any remedies available to it, including reasonable attorney's fees and legal expenses. All unpaid obligations shall bear interest at the contract rate provided under terms of payment above.

Delay. If Customer requests deferral of deliveries, Thomas Medical's agreement to defer delivery shall not excuse Customer from its obligation to pay for the goods at the same times and in the same quantities as the original delivery schedule, including interest due pursuant to these terms and conditions. In addition to adhering to the original payment schedule, Customer shall pay such storage charges as Thomas Medical may assess for storing the goods awaiting delivery. If Customer requests deferral prior to commencement of production, Thomas Medical may require progress payments in connection with expenses for materials and services incurred by Thomas Medical in anticipation of production.

