



Terms and Conditions of Sale

Effective Date of Terms and Conditions; Modification

These Terms and Conditions of Sale (these "Terms") are effective for all purchase orders placed by Buyer with Joerns Healthcare, LLC on or after September 1, 2014 (the Effective Date). On and after the Effective Date, these Terms will supersede all prior terms and conditions regarding the purchase and sale of Joerns Healthcare, LLC products. Joerns Healthcare, LLC reserves the right to modify these Terms from time to time upon written notification to Buyer by U.S. Mail, electronic mail or by posting any changes on the Joerns Healthcare, LLC website (www.joerns.com). Any modification of these Terms shall be effective for all purchase orders placed by Buyer with Joerns Healthcare, LLC on or after the effective date set forth therein. Buyer shall be deemed to have accepted these Terms and any revised Terms upon the earlier to occur of (i) Buyer signing or otherwise authenticating these Terms, or (ii) Buyer placing a purchase order with Joerns Healthcare, LLC after the applicable Effective Date.

Purchase Orders

Buyer may order products and parts by telephone (Joerns Healthcare, LLC written confirmation, if any, shall be conclusive evidence of such order), facsimile, or other written communication (each, a "Purchase Order"), identifying the products or parts by number, quantity, purchase price, address for delivery, date of shipment and any special shipping instructions. All Purchase Orders are subject to acceptance by Joerns Healthcare, LLC in its sole discretion. Any terms or conditions in any Purchase Order, which are inconsistent with, or are in addition to these Terms, shall be null and void. Joerns Healthcare, LLC shall use reasonable efforts to timely fill orders accepted by Joerns Healthcare, LLC subject to availability, demand, inventory and other factors. Any orders shipped COD will be assessed a \$20.00 handling fee.

Order Cancellation/Modification

Orders for custom or customer configured products cannot be cancelled or modified; all sales are considered final. Seller may, however, in its sole discretion, accommodate Buyer's written request for a cancellation or modification. In the event Seller agrees to cancellation, Buyer shall pay to Seller a cancellation charge to include all costs and expenses already incurred or to be incurred for obligations made by Seller in connection with the processing, handling and fabrication of the products subject to the cancelled order, plus reasonable amounts for overhead and profit or fifty percent (50%) of the dollar amount of the cancelled order, whichever is greater. In the event Seller agrees to modification, Buyer shall pay to Seller a modification charge to include all costs and expenses in connection with the modification, plus reasonable amounts for overhead and profit. Buyer and Seller agree that these cancellation and modification charges, as applicable, are necessary as liquidated damages and not as a penalty for Buyer's improper cancellation or modification of the order, which charges Buyer acknowledges are reasonable.

Products and Pricing

Joerns Healthcare, LLC reserves the right to change, without prior notice, the design, construction, and type of materials used in the manufacture of any of its products. Joerns Healthcare, LLC further reserves the right to discontinue, without prior notice, any of its products and/or replacement parts therefore. Joerns Healthcare, LLC may modify the prices of its products at any time. Billing and payment shall be in US Dollars, unless otherwise agreed in writing by the parties.

Payment Terms

Buyer must pay for all products in accordance with the payment terms set forth on Joerns Healthcare, LLC invoice unless otherwise agreed in writing by Buyer. Any payment not made when due shall accrue interest at the rate of 1.5% per month (18% A.P.R.) until paid in full. In the event Buyer fails to make a payment when due, Buyer shall pay all reasonable costs of collection, including reasonable attorneys' fees. Buyer agrees to pay a \$25.00 service charge on any returned check. If payment is not made in accordance with the applicable payment terms, Joerns Healthcare, LLC may suspend all further deliveries, or require full or partial payment in cash, in advance, on new orders. In addition to the foregoing, if Buyer has an outstanding balance of \$200.00 or more on an account and that account is past due and Buyer has not previously notified Seller of a dispute involving the charges for such account, Buyer must pay a Late Payment Fee of \$49.00 for each month that the account is past due.

Freight Terms

All freight charges applicable to the purchase of products and parts by Buyer shall be included on the Buyer's invoice once the product has shipped and available to Buyer, in advance, upon Buyer's request. Freight quotes are valid for 30 days.

Partial Shipments

Joerns Healthcare, LLC will attempt to combine multiple orders for a single shipment. However, Joerns Healthcare, LLC reserves the right to make delivery in installments, which will be separately invoiced, and Buyer shall make payment for installment per invoice terms without regard to subsequent deliveries. Delay in delivery of any installments shall not relieve Buyer of its obligations to accept remaining deliveries.

Delivery and Risk of Loss

All products will be sold Ex Works, Sellers Factory, or Distribution Center, unless otherwise agreed in writing by Joerns Healthcare, LLC and Buyer. Delivery of products to Buyer's carrier shall constitute delivery to Buyer; thereafter, all risk of loss or damage shall be Buyer's responsibility, with claims submitted to Buyer's carrier.

Inspection

Claims for shortages, errors in delivery or defects apparent on visual inspection must be made in writing to Joerns Healthcare, LLC **within ten (10) days after receipt of shipment.** Buyer's failure to give timely notice of the same shall constitute unqualified acceptance of such shipment.

Security Interest

To secure all of Buyer's obligations to Joerns Healthcare, LLC hereunder and under any other agreement between Buyer and Joerns Healthcare, LLC hereby reserves and Buyer hereby grants to Joerns Healthcare, LLC a purchase money security interest in all products and parts purchased by Buyer from Joerns Healthcare, LLC, all inventory consisting of products purchased from Joerns Healthcare, LLC, together with any and all proceeds and other amounts from time to time paid or payable under or in connection with any of the foregoing, upon sale, lease, rental, or other disposition or otherwise, whether permanent or temporary and whether voluntary or involuntary, including with limitation, any and all rents, lease payments, money, cash or cash equivalents, accounts receivable, contract rights, chattel paper, documents, instruments, deposit accounts and general intangibles now existing or hereafter arising from or related to such property. Buyer hereby authorizes Joerns Healthcare, LLC to file any and all documents or instruments, including without limitation, financing statements and continuation statements, which are reasonably necessary to perfect or continue such security interest.

Government Reporting

If Buyer submits a claim or request for Medicare or Medicaid payment for products purchased from Joerns Healthcare, LLC, Buyer is responsible for fully and accurately reporting to applicable government agencies all discounts, rebates, incentive payments, bonuses and the like applicable to such products, including those reflected herein and others which may apply.

Taxes/Fees

Buyer shall be responsible for any and all taxes, duties, fees or charges of any nature imposed by any governmental authority upon sale of products to Buyer (excluding Joerns' income taxes) whether due at the time of sale or later date, including any penalties and interest. In the event Joerns Healthcare, LLC is required to pay such tax, fee, or charge, Buyer shall reimburse Joerns Healthcare, LLC within ten (10) days.

Warranty

A current written warranty statement is supplied with each product. A copy of the current written warranty statement is also available from Joerns Healthcare, LLC upon request. Joerns Healthcare, LLC WRITTEN WARRANTY STATEMENT IS IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. If the condition of the product is such as might or would (subject to these conditions) entitle Buyer to claim damages, to repudiate the Purchase Order, or to reject the product, Buyer shall first make written request of Joerns Healthcare, LLC to fulfill any applicable warranty obligations. To the extent of a valid warranty obligation as determined by Joerns Healthcare, LLC, Joerns Healthcare, LLC shall then be entitled to take corrective actions within a reasonable time in the manner it deems appropriate. If Joerns Healthcare, LLC does so repair the product or supply a satisfactory substitute product or effect repayment or rectification, then Joerns Healthcare, LLC shall be under no liability in respect of any loss or damage of whatever nature arising from the initial delivery of the defective product or the performance of its warranty obligations. Buyer shall not extend to any end-user warranty terms, which are different than Joerns Healthcare, LLC standard warranty terms.

Limitation of Liability

Joerns Healthcare, LLC shall not be liable for (a) claims arising by reason of death or personal injury except so far as the death or injury is attributable to a failure by Joerns Healthcare, LLC to exercise reasonable care; or (b) any lost profits; or (c) any lost revenue or goodwill; or (d) any indirect or consequential damages. As more fully set forth in Joerns Healthcare, LLC warranty policy, Joerns Healthcare, LLC warranty obligations shall not apply to the negligence of Buyer, or end-users of the products, including without limitation: (i) any use, modification, maintenance, repair or combination with other devices not in accordance with written instruction; (ii) exposure of the product to accident or natural causes (such as fire, flood, wind, water, power failure); or (iii) operation of the product beyond its normal useful life.

Returns

30 day return policy on unopened (original packaging), unused product with written permission obtained in advance from Seller with return authorization number issued to Buyer. All approved returns must be shipped F.O.B (Sellers warehouse), and must be properly packaged by Buyer. Product returns are subject to a service charge of 30%, or such amount then in effect. Used Product or Custom Product is not returnable except for warranty purposes. Custom Product is defined as unique configuration for one customer. Product returns, which are not approved or are not prepaid, will not be accepted by Joerns Healthcare, LLC.

Indemnity

Buyer agrees to indemnify and hold harmless Joerns Healthcare, LLC and any of its officers, directors, parent, subsidiary or affiliated companies from any and all claims, losses, damages, charges, expenses (including reasonable attorneys' fees and product recall expenses) arising out of any negligent actions of Buyer including but not limited to the maintenance, repair or alteration of any product, or the improper assembly or incorporation of the product into any other device.

Delays

Joerns Healthcare, LLC shall not be liable for any damage as a result of any delay in performance or nonperformance due to any cause beyond Joerns Healthcare's reasonable control, including, without limitation, an act of God, act of the Buyer, delays caused by Joerns Healthcare's suppliers or subcontractors, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown, war, riot, delay in transportation, or inability to readily obtain necessary labor, materials, or manufacturing facilities.

Intellectual Property

"Intellectual Property" means any and all patents, copyrights, trademarks, trade names, trade secrets, and other proprietary rights of Joerns Healthcare, LLC or its affiliates, and all applications and registrations therefore. Buyer acknowledges that Joerns Healthcare, LLC is the exclusive owner or licensee of all rights, title and interest in and to the Intellectual Property embodied in, related to, or associated with Joerns Healthcare, LLC products. Buyer will immediately notify Joerns Healthcare, LLC of any and all suspected infringements of any Intellectual Property, which may come to the attention of Buyer. Joerns Healthcare, LLC will be responsible for taking any action to prevent infringement of the Intellectual Property.

Confidential Information

Buyer may become familiar with trade secrets and confidential information of Joerns Healthcare, LLC which derive independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from their disclosure or use ("Confidential Information"). Buyer agrees not to disclose or utilize any Confidential Information, including without limitation, product specifications, prices, discounts, manufacturing costs, ideas, technical data, customer lists and sales reports to which Buyer has been privy.

Credit

Joerns Healthcare, LLC may terminate any credit availability within its sole discretion. Buyer understands that Joerns Healthcare, LLC is relying on the truth and accuracy of the information provided to Joerns Healthcare, LLC in any application for credit, as well as any other information provided to Joerns Healthcare, LLC such as financial statements. Buyer authorizes Joerns Healthcare, LLC to conduct any credit investigation of Buyer deemed necessary, including, but not limited to personal credit information about guarantors, general partners, proprietors and individual applicants. Buyer hereby explicitly authorizes trade and bank references to release credit information to Joerns Healthcare, LLC.

Miscellaneous

These Terms shall be construed in accordance with the laws of the State of North Carolina without regard to conflicts of laws. The parties submit to the exclusive jurisdiction of state and federal courts in North Carolina and waive any right to trial before a jury. Each party shall be responsible for its own attorneys' fees and expenses, without regard to any prevailing party's rights under applicable law. These terms shall be binding upon the parties, and their respective heirs, executors, administrators, successors and assigns. These Terms along with any other written agreement between Buyer and Joerns Healthcare, LLC contain the entire agreement between the parties related to the transactions contemplated hereby. Failure of Joerns Healthcare, LLC to object to provisions contained in any Purchase Order or other communication from Buyer shall not be construed as a waiver of these terms, or an acceptance of any other terms.

Joerns Healthcare, LLC 2430 Whitehall Park Drive, Suite100 Charlotte, NC 28273 Telephone: 800.826.0270
Fax: 715.341.3602