

Newmatic Medical Terms of Sale

The terms and conditions of this document supersede the terms and conditions of any purchase order made by Buyer for Seller's products ("Products"). No prior course of dealing or usage of trade shall affect this document or be admissible to explain, modify, or contradict the invoice.

1. Payment for the Products. Seller's terms of payment are Net 30 days. Any invoiced amount remaining unpaid after thirty (30) days, unless disputed in good faith, shall be deemed "past due." Past due balances are subject to a service charge of one and one-half percent (1.5%) per month. Any interest charged and collected in excess of applicable state law shall, upon presentation of appropriate documentation, be returned. If Buyer fails to pay any or all of the invoiced amount when due or if Buyer's credit or financial status erodes or otherwise renders Seller insecure, Seller may, without further notice immediately: (i) suspend Seller's performance hereunder, (ii) declare due and payable all other amounts invoiced by Seller to Buyer regardless of when such payments would otherwise be due from Buyer, and/or (iii) increase the prices for Products by one and one-half of one percent (1.5%). If Buyer's days sales outstanding balance with Seller as determined by Seller exceeds ninety (90) days, Buyer's prices for Products shall be determined by Seller and Customer.

Any discrepancy between any order placed under this Agreement and Seller's corresponding shipment or shipments, including damages, must be reported to Seller for resolution within ten (10) days of Seller's invoice date. The only exception being for price discrepancies that must be reported to Seller for resolution within thirty (30) days of Seller's invoice date. Seller shall have no obligation to resolve, and Buyer holds Seller harmless and waives any rights to any discrepancy or to issue any credit or refund, or to replace any goods, if claim therefore is not made within said applicable ten (10) or thirty (30) day period.

2. Shipment, Risk of Loss, and Title. Shipment of Products per routine order to Buyer and subsequent back orders related to the original shipment shall be shipped FOB Destination. The cost of shipment, if any, has been paid by Seller and added to the corresponding invoice. Emergency, rush orders, and orders not regularly scheduled are subject to an added shipping charge determined by Seller. All orders are subject to a handling charge and will be added to the corresponding invoice. Seller shall have the right to ship the Products at all times via its own vehicle or a carrier selected by Seller. Seller is not responsible for any duty or customs fees and Buyer may be invoiced separately for these charges. Upon signature of receipt, damage to goods becomes the responsibility of the Buyer. As noted on the Seller's packaging, all goods must be inspected prior to disposing of packaging materials. Damaged goods must be reported to Seller immediately upon receipt with ALL packing materials still in Buyer's possession. Ten (10) days after Seller's invoice date, damaged goods become solely Buyer's responsibility.

3. Return Goods Policy. ALL REQUESTS FOR RETURN OF PRODUCTS MUST BE AUTHORIZED BY SELLER'S CUSTOMER CARE DEPARTMENT PRIOR TO RETURNING GOODS. All returned Products must be in original packaging and in resalable condition, unless such Products are not in original packaging or resalable condition due to the fault of the Seller. The amount of credit on any given return is based upon the following:

- a. Products shipped in error by Seller and nonconforming Products – FULL CREDIT if returned within thirty (30) days;
- b. Products shipped that do not meet Seller's standard quality – FULL CREDIT if returned within thirty (30) days in original packaging and received in resalable condition;
- c. Products that are returnable are subject to a restocking charge up to 50%, plus any original freight costs as well as additional costs incurred in returning the Products to the vendor or seller if notified within thirty (30) days and returned in resalable condition;
- d. Products that are NOT returnable – NO CREDIT;
- e. Products that are returned no longer in resalable condition either due to use of product or improper packaging for safe return shipment –NO CREDIT;

f. Special order Products, custom Products, or Products not available for general or unrestricted distribution – NOT RETURNABLE.

g. Products that have come in contact with body fluids are NOT RETURNABLE due to the hazard incurred in the returns process.

4. Excusable Delays. If any party is unable, wholly or in part, by reason of an act of God or any other reason beyond the reasonable control of the party, including unavailability of Products, to carry out its obligations hereunder (other than the obligation to make money payments), that party shall give the other party written notice thereof with reasonable particulars concerning it. During the period of delay, the obligations of all parties hereunder (other than the obligation to make money payments), shall be suspended. The affected party shall use reasonable due diligence to continue performance as quickly as possible.

5. Taxes. When applicable, sales tax shall be included in the Price of Products and invoiced to Buyer. Depending upon the purchase location or the shipping location, Seller may be obligated to collect taxes on both the Price of Product and shipping and handling charges. All other taxes (other than income or excess profit taxes) which may be imposed by any taxing authority on the sale, delivery or use of Products and for which Seller may be held responsible for collection or payment, shall be paid to Seller upon demand, unless Buyer has furnished to Seller an appropriate valid certificate of exemption issued by or acceptable to the tax authority in question. Seller currently collects sales tax in the following states: FL, IN, MI and OH (list subject to change). If Seller does not collect tax in the Buyer's state, the Buyer may be responsible to pay such tax in its own state, county, or municipality.

6. Disclaimer. Seller makes no representation or warranty of any kind, express or implied, as to the merchantability of any products or their fitness for any particular use or purpose. Buyer shall look to the manufacturer of products for any warranty thereon. No agent, employee, or representative of Seller has any authority to make an affirmation, representation, or warranty concerning products not set forth in this agreement. Buyer shall not hold Seller liable for any defect in products, regardless of kind, unless such defect results from the willful default or gross negligence of Seller. Buyer agrees to file solely with the manufacturer of the products any claim or lawsuit alleging loss, injury, damage, or death arising out of or caused by the use, sale, distribution, or possession of products. In no event shall Seller be liable to Buyer for incidental or consequential, damages (including lost profits) from any cause, including, without limitation, damages resulting from any unavailability of, defect in, or misshipment of products.

7. Pricing of Products. Seller's product pricing is subject to change at any time and for any reason without notice to Buyer. Previous catalog prices will not be honored for any reason. Pricing will be quoted and confirmed via Seller's Customer Care Department at time of sale.

8. Discounts. It is the intent of the parties to comply with the Federal anti-kickback statute's safe harbor regulation regarding discounts or other reductions in price set forth at 42 C.F.R. § 1001.952(h). Seller will fully and accurately report such discounts or other reductions in price on an invoice or statement submitted to the Buyer. Seller will also inform the Buyer in a manner that is reasonably calculated to give notice to the Buyer of Buyer's obligations to report such discounts or other reductions in price and to provide information upon request by the Federal or State agencies. Buyer may have an obligation to report the discounts or other reductions in price and must provide information upon request by the Federal or State agencies.

9. Dispute Jurisdiction. This Agreement shall be governed by the laws of the State of Michigan. The parties hereto hereby irrevocably consent to the exclusive jurisdiction of the State and Federal Courts of the State of Michigan for resolution of any dispute related to or arising out of this Agreement. Acceptance by Customer of the Products shall constitute acceptance of all the Terms and Conditions contained herein.