



SALE TERMS AND CONDITIONS

Art. 1 - Validity and scope of application of the Sale Terms and Conditions - Delivery and shipping

These terms and conditions of sale (henceforth the "**Agreement**") exclusively govern Esaote North America, Inc.'s ("ESAOTE") sale, and the purchase and use by you ("Customer"), of the Products, as defined below, through the ESAOTE E-Commerce channel referred to in the site eshop.esaote.com (the "**ESAOTE Site**"). Upon Customer's receipt of ESAOTE's confirmation that Customer's online order has been accepted, this Agreement shall constitute the entire agreement relating to the purchase of the Products.

"Product(s)" refers to the medical equipment and relative new or used accessories, consumer goods, accessories, probes and spare parts as specified in the Online Order (henceforth also "Order(s)"). Online Orders have a contractual offer and ESAOTE reserves the right to send the Customer specific communication of non-acceptance of the Order in the event that the Product(s) were/are not available due to Product unavailability. In the event that the Product(s) is not available, ESAOTE will refund the Customer the amount relating to the purchase price with the same method with which the payment was made. Delivery of the Product(s) must be understood as carriage paid, with all related effects on the transfer of risk. The Product(s) will be shipped to the address specified in the Order. ESAOTE reserves the right to verify the consistency of the address indicated with respect to its installed base, and the right to choose the carrier and shipping methods. Product Delivery means ground floor. Delivery terms will be specified during the purchase process and run from the date of the Order transmission to ESAOTE or from the actual receipt by ESAOTE of the amount due from the Customer as the Price of the purchased Product(s). It is understood that the delivery terms provided are in any case indicative. ESAOTE is not responsible for delays in delivery or failures due to causes beyond its reasonable control, nor can the carrier chosen by ESAOTE be considered an ESAOTE agent. Late delivery for any part of the Order does not give the Customer the right to cancel the Order. ESAOTE is not liable for non-delivery or late delivery due to causes beyond its control or for reasons of proven force majeure. If at any moment of the delivery the Customer refuses the Product, they will not be reimbursed for the related delivery expenses already paid in.

Art. 2 - Online Order(s)

Once the Products have been selected and the relative payment has been made, where the Product(s) is available, the Customer will receive an Order confirmation e-mail, indicating the Order number and a summary of all the Customer data entered in the Order. The Order confirmation e-mail is not ESAOTE's acceptance of the Order, but acknowledgement that ESAOTE has received Customer's Order. The Customer undertakes to verify its correctness and to promptly communicate any corrections through Customer Service (eshop@esaote.com). The Order number must correspond to the one used in any other communication with ESAOTE. In the event that the Product(s) is not available, ESAOTE will refund the Customer the amount relating to the purchase price with the same method with which the payment was made. If ESAOTE accepts Customer's Order, ESAOTE will email customer acceptance of the Order. Customer Service is where reports and/or information requests about the status of shipments can be made (eshop@esaote.com). ESAOTE reserves the right to refuse requests for information and/or Orders from:

- a Customer with whom there is an ongoing legal dispute;
- a Customer who has previously violated the conditions and/or terms of this Agreement
- a Customer who has previously violated the conditions and/or terms of this Agreement;
- a Customer who has been involved in fraud of any kind and, in particular fraud involving credit card payments;
- a Customer who has entered false, incomplete or otherwise inexact identification data.

Art. 3 - Delivery and Transportation

ESAOTE will notify Customer of the approximate delivery date(s) of the Products, but ESAOTE does not guarantee a particular date of delivery. Delivery shall be F.O.B. common carrier, ESAOTE's shipping point. Title to the Product(s) and liability for loss or damage thereto in transit shall pass to Customer upon ESAOTE's delivery of the Product(s) to a common carrier for shipment to Customer.

Art. 4 - Product Purchase Price

The Purchase Price of products published on the ESAOTE Site are in U.S. Dollars and include taxes. ESAOTE reserves the right to change the Product Purchase Price at any time, without notice; it is understood that the Purchase Price relating to Product(s) acquired by the Customer will not be changed with regard to Purchase Price specified in the Online Order accepted by ESAOTE. Delivery charges are at the Customer's expense, unless otherwise indicated in the purchase procedure. The amount (including VAT) of these expenses, which may vary in relation to the Product(s) purchased and the destination, will be indicated separately before the Customer confirms the Online Order. For delivery of Products in certain territorial areas, specifically indicated during the purchase procedure, the payment of a surcharge ("expense contribution") may be required, the exact amount of

which will be clearly indicated during the purchase procedure and before the transmission of the Order. Where applicable, the customer is responsible for customs charges and duties, which will not be reimbursed in the event of termination, for any reason, of the purchase contract, including the case of Return. In any case, the amount due by way of non-refundable customs charges and duties in the event of termination of the purchase contract will be explicitly indicated in the purchase procedure, before the Customer sends the Order. In the Order summary and, therefore, before the Customer proceeds with its transmission, the total price of the Order will be indicated, with a separate indication of the delivery costs and any other possible additional expense. This total, which will also be indicated to the Customer in the Order confirmation e-mail, will constitute the total amount due by the Customer in relation to the Order.

Art. 5 - Payments

This Agreement is valid only for the Products to be located and used within the territory of the fifty states of the United States of America (the "Territory"); ; price, terms, warranty and all other conditions of this Agreement are void if the Products are located outside the Territory. The Purchase Price payment owed by the Customer is paid at the same time as when the Online Order is entered. Purchased Product payment on the ESAOTE Site can be made using the payment methods indicated during purchase procedure. If the Customer chooses the bank transfer payment method, ESAOTE will send the Order confirmation to the Customer following receipt of the amounts to be transferred. Such confirmation is not ESAOTE's acceptance of the Order, but acknowledgement that ESAOTE has received Customer's Order. ESAOTE reserves the right to terminate the Purchase Agreement in the event of non-payment of the Purchase Price or payment/non-payment in breach of the terms specified in the Online Order and/or these Sale Conditions.

Art. 6 - Installation, Inspection, Acceptance of Product(s)

Where provided, installation and inspection are done by ESAOTE, or by those so charged. In such cases, ESAOTE agrees to install each item of Products at the installation site, provided the installation site requirements specified by ESAOTE in the published specifications for proper operation of the Product(s) (a copy will be provided upon request) have been satisfied. Satisfaction of the installation site requirements is Customer's responsibility.

Customer may rightfully reject any Product(s) ordered and delivered herein only if (a) the Products fail to conform to the specifications for it set forth in this Agreement, (b) written notice of the specific nonconformity is received by ESAOTE within five (5) days of the installation of Products or within ten (10) days of delivery if the Products is to be installed by Customer, and (c) ESAOTE fails to cure such non-conformity within a reasonable period after receipt of written notice. If the Products conform to specifications, Customer shall be deemed to have accepted the Products five (5) days after installation of the Products or within ten (10) days after delivery if the Products are to be installed by Customer, unless ESAOTE has received from Customer proper written notice of nonconformity in accordance with this Article.

Art. 7 - Cancellation

Except for Products rejected in accordance with Article 6 above, Customer may return Products to ESAOTE only if such return is authorized in writing by ESAOTE. Any such return shall be subject to a restocking charge to Customer equal to twenty percent (20%) of the purchase price, with such charge to be invoiced and due upon ESAOTE's receipt of the returned Products. Customer must follow the procedures contained in Article 8 of this Agreement in returning any Products. Notwithstanding, ESAOTE does not offer a restocking program for refurbished Products. Customer agrees that once the refurbished Products are purchased, they cannot be returned.

Art. 8 - Warranty

- a. ESAOTE warrants to Customer as follows:
 - i. Unless limited by paragraph (b) herein, any mainframe chassis and circuit cards, system video display monitor, scanning probe(s), video tape recorders, cameras, auxiliary monitors, page printers, chart recorders and other similar accessories which constitute part or all of the Product(s) shall conform to specifications published therefore, and shall be free of defects in materials and workmanship for a period of one (1) year from the date of installation or thirteen (13) months from delivery, whichever is sooner (unless a different time period is otherwise specified herein); and
 - ii. Any ECG patient cables, ECG lead wires and supplies, external batteries, consumables, lamps, fuses and finish which constitute part or all of the Part(s) shall conform to specifications published therefore, and shall be free of defects in materials and workmanship for a period of thirty (30) days from the date of installation (unless a different time period is otherwise specified herein).
- b. For refurbished Products, the warranty period provided in paragraph (a)(i) is limited to a period of ninety (90) days from delivery (unless a different time period is otherwise specified herein).
- c. This warranty shall be void for any Product(s) which is misused, abused, lost, stolen, neglected, tampered with, destroyed or damaged by accident, fire or other peril, subjected to abnormal or unusual electrical stress, improperly operated, improperly installed if installed by other than ESAOTE, serviced by unauthorized personnel or not maintained in accordance with the routine maintenance

- schedule set forth in any operating manual(s) for the Product(s).
- d. ESAOTE will repair or, at its sole option, replace using new or reconditioned parts and/or assemblies, all Product parts and assemblies which are defective and included under this warranty. ESAOTE reserves the right to perform such repair at the Customer's site or an ESAOTE facility. Customer shall return any replaced Product part to ESAOTE within five (5) days of receiving the replacement part. Such replaced part shall belong to ESAOTE. Customer must follow the procedures contained in Article 8(h) of this Purchase Agreement in returning any Product or parts.
 - e. If ESAOTE elects to perform such repair at ESAOTE's facility, ESAOTE may provide substitute loaner equipment, if requested and if available. However, such equipment may not be identical to Customer's Product in size or function. Title to any loaner equipment shall remain in ESAOTE. Customer shall send to ESAOTE the item of Product needing repair within five (5) days of receiving loaner equipment. Customer shall return such loaner equipment to ESAOTE within five (5) days of Customer's receipt of its own repaired item of Product. Customer must follow the procedures contained in Article 8(h) of this Purchase Agreement in returning any Product or parts.
 - f. Should Customer fail to return any replaced Product part within the time period specified in Article 8(d) above, or should Customer fail to return the defective Product part needing repair or the loaner equipment within the time periods specified in Article 8(e) above, ESAOTE may either invoice Customer for such part or loaner equipment at full list price or charge Customer a reasonable daily rental, at ESAOTE's option. Such invoices or rental charges shall be due upon receipt by Customer.
 - g. Replacement parts for Product(s) are warranted for the unexpired portion, if any, of the original warranty period for the part replaced.
 - h. All items of Product(s) returned to ESAOTE for any reason, whether such items are within or without this warranty, must be accompanied by a Return Material Authorization (or "RMA") number previously obtained from ESAOTE's Customer Service Department. If Customer fails to obtain such a number, ESAOTE shall have no obligation to accept the item of Product(s) from the freight carrier or other agent of Customer.
 - i. ESAOTE reserves the right to make changes in design and improvements on its products or parts, without assuming any obligation to install such products or parts in previously manufactured products, including Customer's Product(s).
 - j. ESAOTE is not responsible for any loss of stored data that may occur when your Product is being repaired or returned. Customer is responsible for backing up all data stored on a system and removing it from the system prior to any repairs by or returns to ESAOTE.
 - k. Except in cases of willful misconduct or gross negligence, ESAOTE is not liable for any damages - of any nature or cause (including those for possible suspension of the diagnostic activity) - the Customer suffered directly or indirectly, depending on the faults and/or defects reported and ascertained, depending on contractually acquired product failure, or depending on the temporary or definitive unavailability of the Product(s) itself. In the case of Product(s) covered by the Warranty beyond the 12 (twelve) months, special probes and accessories are excluded from the Warranty. This means the following Special Probes: volumetric/ intra- operative/laparoscopic/transesophageal/convex probes for biopsy/biplane endocavity (e.g., transrectal biplan). In the case of the sale of used or refurbished Product(s), unless otherwise specified, the Warranty period, will be 6 (six) months from the inspection date, where applicable, or from the date the Product(s) was delivered.
 - l. TO THE MAXIMUM EXTENT PERMITTED BY LAW, ESAOTE SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY OF TITLE AND AGAINST INFRINGEMENT. ESAOTE SHALL HAVE NO FURTHER OBLIGATION OR LIABILITY WITH RESPECT TO THE PRODUCT(S) OR ITS SALE, OPERATION AND USE, AND ESAOTE NEITHER ASSUMES NOR AUTHORIZES THE ASSUMPTION OF, ANY OBLIGATION OR LIABILITY IN CONNECTION WITH SUCH PRODUCT(S).

Art. 9 - Remedies

The rights and remedies provided to Customer in this Agreement shall be the SOLE and EXCLUSIVE rights and remedies of Customer with respect to the breach of a warranty or other provision of this Agreement by ESAOTE, and Customer hereby waives all other rights and remedies provided by applicable law, including without limitation, incidental, consequential, liquidated, special, punitive or any other money damages, OR ANY CLAIM OR DEMANDS BROUGHT BY OR AGAINST CUSTOMER, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, EVEN IF ESAOTE WAS ADVISED OF THEIR POSSIBILITY. IN NO EVENT SHALL ESAOTE'S AGGREGATE LIABILITY TO CUSTOMER ARISING OUT OF, RELATED TO OR IN CONNECTION WITH THE SALE OR USE OF ANY PRODUCT(S) UNDER THIS ONLINE ORDER EXCEED THE PURCHASE PRICE PAID TO ESAOTE BY CUSTOMER FOR SUCH PRODUCT(S), ANY ACTION AGAINST ESAOTE MUST BE BROUGHT WITHIN EIGHTEEN (18) MONTHS AFTER THE CAUSE OF ACTION ACCRUES. CUSTOMER SHALL BE LIABLE TO ESAOTE FOR AND SHALL PAY TO ESAOTE ALL COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, INCURRED BY ESAOTE TO COLLECT THE PURCHASE PRICE FROM CUSTOMER OR OTHERWISE TO ENFORCE ANY OF THIS AGREEMENT AGAINST CUSTOMER. In the event Customer breaches this Agreement, ESAOTE shall have all remedies available under applicable law.

Art. 10 - Product replacement and modification

ESAOTE reserves the right to make changes in Product configuration and specifications at any time, as long as these changes do not substantially alter Product functionality. The Customer expressly accepts that features and/or exterior aspects of the Product(s) are purely indicative or subject to variations without prior notice. In any case, the Customer forfeits as of now any requests for discounts and/or reductions in purchase price if the Product(s) has been modified as a result of changes that have occurred in the period between when the Order was sent and delivery; the Customer similarly forfeits as of now any request for compensation and/or damages for any reason, based on the same reason.

Art. 11 - Reports of Accidents and Indemnity

The Customer is obliged to manage and use the Product(s), ensuring their maintenance, exclusively in accordance with current legislation, as well as in accordance with the requirements contained in the Product(s) User Manual. Regardless of any reporting obligations provided for by current legislation, the Customer is required to inform ESAOTE, in writing, of any accident that has occurred, as well as of: malfunctioning, failure or changes in features, of Product performance or discrepancies in Product specifications that caused, could have caused or could cause, death or serious deterioration of the state of health, directly or indirectly; the Customer is required to notify ESAOTE of such incidents immediately after becoming aware of them and in any case no later than the following 3 (three) business days. The Customer is expected to guarantee that Product maintenance is entrusted exclusively to qualified personnel. The Customer is expected to have all documentation relating to Product maintenance available on ESAOTE's request.

Customer shall and does hereby agree to indemnify and save ESAOTE, its officers, directors, employees, agents, successors and assigns harmless of and from any and all liability, loss, cost, injury, damage, demand and expense (including, without limitation, reasonable attorney's fees and related costs) of any kind whatsoever arising out of, on account of, or in connection with (i) any use or misuse of the Products including, without limitation, use contrary to or different from that prescribed in any operator's manual(s), failure to follow the procedures for operation or maintenance in any operator's manual, failure to satisfy the installation site requirements, operation by other than a trained operator, use of repair parts in an altered condition, use with any power supply contrary to its accompanying instructions, failure to follow any information or directive, representing a test result to be more accurate, precise, or reliable than set forth in the specifications, incorrectly characterizing a test result as normal or abnormal or otherwise incorrectly utilizing a test result, or using any test result which would have appeared incorrect to an operator/physician correctly applying the procedures and techniques taught at educational facilities; (ii) Customer's breach of this Agreement; (iii) Customer's violation of applicable law; and (iv) ESAOTE's performance of any obligations under this Purchase Agreement; including servicing the Product(s); provided, however, that such indemnification shall not apply to any direct loss or damage caused by the negligence of ESAOTE or its employees. This indemnity shall survive the termination or satisfaction of this Agreement.

Art. 12 - Software

As applicable and without prejudice to the possibility of entering into a separate software license agreement, the Customer is hereby granted a non-exclusive license to use the ESAOTE Software, as well as the entire documentation (the "documentation", together with the software is called "software products"), developed by ESAOTE and connected to the same software, exclusively for the use illustrated in the User Manual of the Product(s). The Customer is expected to refrain from carrying out or having third parties carry out the following operations: (a) re-assembly, decompilation or other forms of reverse engineering, as well as the reconstruction and decryption of the source codes or the ideas and algorithms underlying the software; b) provision, rental, loan, use in timesharing or service office mode, as well as external use or the granting of use of the software for the benefit of third parties; c) reproduction, modification, integration or merger with other software, as well as the creation of derivative forms from parts of the software products. The software, together with all related updates, changes and additions, as well as the entire documentation made available, always remain the exclusive property of ESAOTE. The Customer agrees to treat the software products confidentially, not to duplicate them in any form or reproduce them, directly or indirectly.

Art. 13 - Applicable laws and Legal Venue

The laws of the State of Indiana shall govern this Agreement in all aspects, including execution, interpretation, performance and enforcement, without regard to principles of conflicts of law. ESAOTE AND CUSTOMER AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING FROM OR RELATED TO THIS AGREEMENT, WHETHER BASED UPON CONTRACT OR OTHERWISE, SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE STATE OF INDIANA. CUSTOMER HEREBY SUBMITS TO PERSONAL JURISDICTION IN INDIANA AND HEREBY WAIVES THE RIGHT TO A TRIAL BY JURY, ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE OR PERSONAL JURISDICTION, AND IN THE EVENT OF A COLLECTION ACTION BY ESAOTE, THE RIGHT TO COUNTERCLAIM.

Art. 14 - Proprietary Information

Customer agrees that all patents, patents pending copy-rights, trademarks, trade secrets, logos, and all other information, including without limitation, inventions, products, processes, apparatus or designs, whether patentable or unpatentable, that ESAOTE conceives, invents, originates, owns or otherwise has an interest in at any time prior or subsequent to the date of this Agreement ("Proprietary Information") shall remain the property

of ESAOTE. Customer shall maintain the confidentiality of all Proprietary Information which is confidential, shall not disclose or provide any confidential Proprietary Information to others, and shall use best efforts to ensure that the employees, agents and independent contractors of Customer shall not improperly use, disseminate or disclose any confidential Proprietary Information. Customer agrees that if Customer materially breaches a term or condition of this article, ESAOTE's remedies in money or damage will be inadequate and that ESAOTE shall be entitled to obtain immediate injunctive relief from a court of competent jurisdiction. Such relief shall not limit ESAOTE's right to seek further remedies. The terms of this article shall survive termination of this Agreement.

Art. 15 - Non-Waiver

Failure by ESAOTE to insist upon strict compliance with any of the terms or conditions of this Agreement shall not be deemed a waiver of such terms or conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times.

Art. 16 - General

The captions, headings and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify or modify the terms and provisions hereof. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision there shall be added automatically as part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be legal, valid and enforceable. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of ESAOTE and Customer and their respective successors, permitted assigns and legal representatives.

Art. 17 - Entire Agreement/Modification

This Agreement shall be complete and binding when upon Customer's receipt of ESAOTE's acceptance of Customer's Online Order. THIS AGREEMENT, TOGETHER WITH A VALID ESAOTE TRADE-IN CERTIFICATE, IF ANY, SHALL CONSTITUTE A FINAL, COMPLETE AND EXCLUSIVE WRITTEN EXPRESSION OF ALL TERMS AND CONDITIONS OF ESAOTE'S CONTRACT TO SELL TO CUSTOMER THE PRODUCTS ORDERED HEREIN, AND SUPERSEDES AND REPLACES ALL PRIOR AGREEMENTS AND UNDERSTANDINGS, WRITTEN OR ORAL, RELATED TO THIS AGREEMENT. ANY REPRESENTATION, WARRANTY, PROMISE OR STATEMENT GIVEN TO CUSTOMER BY ESAOTE OR BY ANY AGENT OF ESAOTE IN ADDITION TO OR CONTRARY TO THE TERMS AND CONDITIONS OF THIS PURCHASE AGREEMENT IS WITHOUT AUTHORITY AND SHALL BE GIVEN NO FORCE OR EFFECT. ESAOTE'S ACCEPTANCE HEREOF IS NOT AN ACCEPTANCE OR WRITTEN CONFIRMATION OF ANY OFFER OR ORDER SUBMITTED BY CUSTOMER, OTHER THAN THAT MADE ON THIS AGREEMENT FORM, AND ANY TERMS OR CONDITIONS OF ANY SUCH OFFER OR ORDER SUBMITTED BY CUSTOMER IN ADDITION TO OR CONTRARY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT ARE REJECTED AND SHALL BE GIVEN NO FORCE OR EFFECT. This Agreement may not be altered, modified, terminated or discharged, except by a subsequent writing signed by the party against whom such alteration, modification, termination or discharge is sought to be enforced.

Art. 18 - Notice

Any notice to ESAOTE under this Agreement shall be sent by email to enasalesadmin@esaote.com with a courtesy copy sent by First Class Mail to Esaote North America, Inc., 11907 Exit Five Parkway, Fishers, Indiana 46037.

Art. 19 - Force Majeure

If ESAOTE's performance of this Agreement or of any obligation hereunder is prevented, restricted, or interfered with by reason of fire or other casualty or accident, strikes or labor disputes, inability to procure raw materials, delays in transportation, power or supplies, war or other violence, any law, order, proclamation, regulation, ordinance, demand or requirement of any government agency, or any other act or condition whatsoever beyond ESAOTE's reasonable control, ESAOTE, upon giving reasonable notice to Customer, shall be excused from such performance to the extent of such prevention, restriction or interference, provided that ESAOTE shall use reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance hereunder with reasonable dispatch whenever such causes are removed.

Art. 20 - Execution Warranty

Customer warrants, which warranty shall survive this Agreement, that it has entered into this Agreement pursuant to proper authorization and that this Agreement constitutes a valid and binding obligation of Customer. The person executing this Agreement for Customer warrants, which warranty shall survive this Agreement, that this Agreement and his/her execution thereof have been duly authorized by Customer, that it constitutes a valid and binding obligation of Customer, and that he/she has authority to make such execution for Customer.