



123 Comac Street • Ronkonkoma, NY 11779  
800-773-4582 • www.uscultrasound.com

## Equipment Quotation – Terms & Conditions

### 1. Definition of Products:

**(a) Pre-Owned Products:** Products offered for purchase are not new and have been previously owned and used.

**(b) New Products:** Products offered for purchase are new and their warranties are either exclusive to the OEM, USC, or both.

**2. Quotation Acceptance** Customer acceptance of this quotation is confirmed by Customer signing and returning the Quotation or by sending a purchase order in response to the Quotation. This document constitutes the entire agreement relating to the products covered by the Quotation. No terms, conditions or warranties other than those identified in the Quotation and no agreement or understanding, oral or written will be binding on USC unless agreed to in writing by both Customer and USC.

**3. Product Availability.** All sales are subject to Product availability at the time of Customer's acceptance of the USC quotation. If the Products are no longer available, USC will cancel Customer's order and refund any deposits Customer has made for the cancelled order. This is USC's sole liability and Customer's exclusive remedy.

**4. Order Cancellation.** If Customer cancels an order without USC's prior written consent within 90 days before the scheduled delivery date, Customer will pay a cancellation charge of 15% of the price of the products ordered (the "Cancellation Charge"). USC will retain any payments received up to the amount of the Cancellation Charge. In the event that the Cancellation Charge exceed amounts previously paid by Customer, Customer shall remit the deficit to USC within thirty (30) days of an invoice and in the event that the amounts previously paid by Customer exceed the Cancellation Charge, USC shall remit the surplus to Customer within thirty (30) days of an invoice.

**5. Terms of Payment** The price and payment terms for the Product(s) are stated in the USC Quotation. Failure to make timely payment is a material breach of this agreement, for which (in addition to other available remedies) USC may suspend performance under any or all agreements with Customer until all past due amounts are brought current. Interest shall accrue on past-due amounts at a rate equal to the lesser of 1.5% per month or the maximum rate permitted by applicable law. Customer shall be responsible for USC's reasonable costs (including attorneys' fees) relating to collection of past due amounts.

**6. Taxes** Prices do not include any applicable taxes. Customer acknowledges it shall be responsible for the payment of any such taxes.

**7. Security Interest** Customer herein grants USC a purchase money security interest in all items of equipment purchased by Customer from USC until full payment is received.

**8. Warranties Disclaimer** Except as expressly set forth on the attached Quotation, Customer acknowledges that Pre-Owned Products are provided "AS IS" and without any warranties of any kind. USC disclaims all warranties relating to the Pre-Owned Products, express or implied, including but not limited to any warranties of merchantability, fitness for a particular purpose, any warranties against infringement of third-party rights and warranties arising from course of dealing or performance or usage of trade.



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### **Equipment Quotation – Terms & Conditions (Continued)**

**9. Transportation** Unless otherwise stated on the USC Quotation, shipping terms are FOB Origin, Freight Prepaid & Add. Customer assumes title and risk of loss at the shipping point and is responsible for arranging and paying for insurance against property damage or loss until delivery to Customer.

**10. Product Acceptance** Unless expressly provided otherwise in the USC Quotation, Product sales are final upon acceptance by Customer. Customer shall be deemed to have accepted a product delivered by USC upon the earlier of: written acceptance of the product by the Customer or 5 days after delivery of the product to Customer.

**11. Governing Law & Liability** The law of the state of New York will govern any dispute between the parties. **EACH PARTY EXPRESSLY WAIVES ALL RIGHTS TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE ARISING UNDER THIS AGREEMENT.** Disputes (other than collection matters) arising under or relating to this agreement will be submitted to the American Arbitration Association ("AAA") office located in New York, New York for binding arbitration in accordance with the AAA's Commercial Arbitration Rules. The cost of the arbitration, including the fees and expenses of the arbitrator, will be shared equally, with each party paying its own attorneys' fees. The arbitrator will have the authority to award damages only to the extent otherwise available under this agreement. Liability under this agreement shall not exceed the price for the product that is the basis for the claim. Neither customer nor USC shall have liability to the other under this agreement for any punitive, incidental or consequential damages, such as excess costs incurred, data loss or lost profits or revenue. The limitation of liability and exclusion of damages shall apply even if the limited remedies fail of their essential purpose. Customer shall indemnify USC and its employees, agents, officers, and directors for any claim or loss directly or indirectly attributable to Customer's acquisition, use, or sale of the Product(s), excepts to the extent that such claim or loss is caused by USC's gross negligence or willful misconduct.

**12. Software and Licenses** If applicable, Customer has the sole responsibility to contact the manufacturer of the Product(s) and obtain any necessary licenses to use any software or any other licensed products embedded in the Product(s).

**13. Compliance to Law** Customer shall comply with all applicable laws and regulations in selling the Products. These laws shall include, without limitation, U.S. and foreign medical device laws, environmental laws, import/export laws and product safety laws. Customer acknowledges that the Product(s) is a prescription medical device regulated by the U.S. Food and Drug Administration ("FDA") and may only be used by or on the order of a licensed health care provider. If Customer re-sells the Product(s) to a third party, Customer (1) is responsible for ensuring that the Product(s) complies with all applicable regulations; and (2) will indemnify USC against any damages or costs incurred by USC that are attributable to Customer's breach of the terms of this section.

**14.** Prices quoted herein remain valid for fifteen (15) business days from the stated quotation date.