



Terumo Cardiovascular Systems Corporation
6200 Jackson Rd, Ann Arbor, Michigan 48103
Main: (734) 663-4145
Toll-free: (800) 262-3304
www.terumo-cvgroup.com

Custom Product Stocking Agreement: Q-00330 May 21, 2021

This Custom Product Stocking Agreement (“Agreement”) is effective upon full execution of this Agreement (“Effective Date”) and is by and between **Terumo Cardiovascular Systems Corporation**, a Delaware corporation, having an address at 6200 Jackson Road, Ann Arbor, Michigan 48103 (“Terumo Cardiovascular”, or “TCV”) and **San Bernardino County on behalf of Arrowhead Regional Medical Center** located at 400 N. Pepper Ave, Colton, CA 92324 (“Customer”) (each a “Party”) (collectively, the “Parties”).

IN CONSIDERATION of the mutual promises and covenants herein contained, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

Custom Products are defined as the following products and all subsequent versions:

Catalog Number	Description	Qty Per Case	Case Price	Annual Usage	Stocking Levels (45 Days)	Stocking Levels (90 Days)
77099	X-Coated Open Heart Pack	1	\$658.00	75	9	18

- 1. Changes:** Customer may change the specifications for Custom Product(s) by authorizing in writing each revision, and all revised Custom Product(s) will become part of this Agreement. The catalog numbers of subsequent versions will be denoted with an extension to the catalog number. Specification revisions may warrant a price change.
- 2. Inventory Levels:** Terumo Cardiovascular reserves the right to adjust Customer inventory levels based on actual usage. If any product in this agreement is not ordered for a period of 120 days, (not to exceed Customer stocking levels stated above) TCV reserves the right to ship and bill the Customer for all remaining inventory.
- 3. Term:** The term of this Agreement is for a period of one (1) year (“Original Term”) from the Effective Date. This Agreement shall automatically be renewed for additional one (1) year terms (“Renewal Term”), under the same terms and conditions as the Original Term, unless and until Terumo Cardiovascular receives written notice of cancellation from Customer, but in no event may the term of the Agreement extend beyond five (5) years from the Effective Date.
- 4. Termination:** Customer or Terumo Cardiovascular may cancel this Agreement for any reason with ninety (90) days advance written notice. Upon termination of this Agreement, Customer shall purchase all Custom Product(s) (not to exceed the ninety (90) days stocking level), which are in the Terumo Cardiovascular’s inventory.
- 5. Price and Payment Terms:** The terms of this Agreement are net 60 days, F.O.B. Destination Point, 3rd Party Billing. Pricing will remain firm for one (1) year, the term of the Agreement.
- 6. Delivery:** Product will be available for initial shipment six (6) weeks from Customer’s receipt of the signed Agreement. Thereafter, product will be stocked based on the inventory levels indicated above.
- 7. Hematocrit/Oxygen Saturation:** An Equipment agreement shall be executed by the Parties, if Customer’s custom pack includes sat/crit, and Terumo Cardiovascular Systems will supply Customer with hardware.
- 8. Notices:** Any notice required or permitted under this Agreement shall be sufficient if in writing and personally delivered, sent by certified or registered mail, return receipt requested, postage prepaid and properly addressed at the respective addresses listed below, or if electronically delivered to such other party or to such other

place as may be designated by written notice by either party to the other from time to time. Notice given by mail shall be deemed delivered two business days after the date of deposit in the mail.

To Terumo CVS: Tabitha Firman
Terumo Cardiovascular Systems
6200 Jackson Rd
Ann Arbor, Michigan 48103
Phone: (734) 741-6043
Email: tabitha.firman@terumomedical.com

To Customer: Arrowhead Regional Medical Center
400 N. Pepper Avenue, Colton, CA 92324
Attn: Hospital Director
Colton, CA 92324

- 9. Waiver:** No waiver of any provision of this Agreement shall be valid unless in writing, duly executed by the party to be charged therewith. No waiver of a provision or of the breach thereof shall be construed as a waiver of any other provision or breach, or a waiver of the same provision or breach in any other instance.
- 10. Signatures:** This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.
- 11. Intentionally Omitted.**
- 12. Entire Agreement; Modification; Severability:** This Agreement and the Terumo Cardiovascular Systems Standard Terms and Conditions, attached hereto as Attachment A, contain the entire understanding of the Parties with respect to the matters contained herein and supersedes all previous agreements and undertakings with respect thereto. This Agreement may be modified only by written agreement signed by the Parties. If any provision of this Agreement is found to be invalid or unenforceable by any court or other lawful forum, such provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions of this Agreement, unless such invalidity or unenforceability would defeat an essential business purpose of this Agreement.

Terumo Cardiovascular Contacts

Armando Rosales, Terumo Cardiovascular Systems Senior Territory Manager, at (909) 717-5879
Tabitha Firman, Terumo Cardiovascular Systems Senior Contract Admin, at (734) 741-6043
or email tabitha.firman@terumomedical.com

Accepted and agreed to by a duly authorized representative of each party hereto as provided below:

San Bernardino County on behalf of
Arrowhead Regional Medical Center

Terumo Cardiovascular Systems Corporation

Signature: _____

Signature: _____

Tabitha Firman

Name (Print): _____

Name (Print): _____

Tabitha Firman

Title: _____

Title: _____

Sr. Contract Administrator

Date: ____/____/____

Date: ____/____/____

____/09/23/2021

Phone Number: _____

PhoneNumber: _____

734-741-6043

EmailAddress: _____

EmailAddress: _____

tabitha.firman@terumomedical.com

ATTACHMENT A
Terms and Conditions



Terumo Cardiovascular Group
6200 Jackson Road, Ann Arbor, Michigan 48103
Main: 734.663.4145
Toll-free: 800.262.3304
www.terumo-cvgroup.com

ATTACHMENT A

Terumo Cardiovascular Systems – Standard Terms and Conditions

1. Invoicing and Payment:

All prices are F.O.B. Terumo Cardiovascular Systems, point of shipment (hereafter referred to as **Terumo Cardiovascular Systems**) unless otherwise stated in the Proposal. All invoices will be dated at or after the date of shipment. All invoices are payable in full within sixty (60) days of the date of invoice, unless an arrangement for Extended Payment Terms is made prior to shipment.

2. Shipment and Risk of Loss:

Terumo Cardiovascular Systems Corporation ("Terumo Cardiovascular") makes every effort to meet any shipping dates specified in **Buyer's** purchase orders, but Terumo Cardiovascular Systems does not guarantee to meet any particular shipping deadlines. **Terumo Cardiovascular** will, however, promptly notify Buyer of any delays in processing **Buyer's** order. **Buyer's** only remedy for late shipment is to cancel the order. A written notice of cancellation must arrive at **Terumo Cardiovascular** before the Product is actually shipped. Unless instructed otherwise in writing, **Terumo Cardiovascular** will ship via the most economical route and method available, freight prepaid and added to the invoice. Risk of loss passes to **Buyer** at the F.O.B. point. Title transfers only when **Buyer** has fully paid for the products.

3. Excusable Delay:

Terumo Cardiovascular Systems makes every effort possible not to delay your shipment. However, we cannot be held responsible due to causes beyond **Terumo Cardiovascular** reasonable control.

4. Limited Warranty; Remedies Limited:

Terumo Cardiovascular will repair or replace free of charge any part found to be defective in workmanship or material during one year from the date of shipment. This warranty does not apply to filters, light bulbs, fuses or other expendable items, or to those parts damaged by improper use or by accident. Any parts found to be defective due to lack of maintenance in accordance with Terumo Cardiovascular Systems Operators Manuals, or as a result of unauthorized repair, will be repaired or replaced at service rates in effect at that time. ***This warranty is expressly in lieu of all other warranties expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose.*** Neither party shall not be liable under any circumstances, for any consequential, incidental, or indirect damages or expenses associated with this warranted product or its use.

5. Buyer's Duty to Inspect:

Buyer will promptly inspect any shipment of Products received from **Terumo Cardiovascular** and will promptly notify **Terumo Cardiovascular** of any patent defects. The notice must specify the defects in detail; any patent defect present but not specified is waived. After sending the notice, **Buyer** will follow **Terumo Cardiovascular** return goods policy then in effect, or any specific and reasonable instructions which **Terumo Cardiovascular** may issue. **Buyer** will allow **Terumo Cardiovascular** to inspect any allegedly defective goods at Buyer's site. For any goods which **Terumo Cardiovascular** determines are defective, Buyer will follow **Terumo Cardiovascular** instructions and either return the goods to **Terumo Cardiovascular**, with **Terumo Cardiovascular** responsible for the return freight, or dispose of the goods in a safe manner (approved by **Terumo Cardiovascular**), at no charge to **Terumo Cardiovascular**. If Buyer chooses to dispose of goods, Buyer will be responsible for the cost of disposal of goods. Return of defective goods to Terumo Cardiovascular will be at Terumo Cardiovascular's expense. Any goods not rejected within thirty (30) days of delivery are accepted.

6. Use of Terumo Cardiovascular Systems Corporation Names and Trademarks:

Except where required to effectuate the purpose of the Agreement, neither party will make use whatsoever of the other party's name without written permission, which may be withheld for any reason. **Buyer** will not use or reproduce any of **Terumo Cardiovascular** trademarks in any manner without **Terumo Cardiovascular** prior written approval. To request this approval, **Buyer** must forward to **Terumo Cardiovascular** a complete and accurate specimen copy of the proposed use. If in its sole discretion, **Terumo Cardiovascular** chooses to approve the use, the use is subject to any revisions which **Terumo Cardiovascular** may choose to make on the specimen.

7. No Assignment OR Delegation:

Neither party may assign its rights or delegate its duties under these Terms and Conditions without the written consent of the other party.

8. Debarment and Suspension:

Terumo Cardiovascular hereby represents and warrants that to the best of its knowledge it is not and at no time has been convicted of any criminal offense related to health care nor has been debarred, excluded, or otherwise ineligible for participation in any federal or state government health care program, including Medicare and Medicaid. Further, **Terumo Cardiovascular** represents and warrants to the best of its knowledge that no proceedings or investigations are currently pending or to **Terumo Cardiovascular's** knowledge threatened by any federal or state agency seeking to exclude **Terumo Cardiovascular** from such programs or to sanction **Terumo Cardiovascular** for any violation of any rule or regulation of such programs. **Terumo Cardiovascular** hereby agrees to notify Hospital within a commercially reasonable time in writing of any threatened, proposed or actual conviction or exclusion from any federal or state funded health care program, including Medicare and Medicaid, or any investigation that could lead to a conviction or exclusion. In the event that **Terumo Cardiovascular** is convicted of any criminal offense related to health care or is excluded from participation in any federal or state funded health care program during the term of this agreement, or if at any time after the effective date of this agreement it is determined that **Terumo Cardiovascular** is in breach of this provision, this agreement shall, as of the effective date of such conviction, exclusion, or breach, automatically terminate.

9. Intentionally Omitted

10. Insurance

Terumo Cardiovascular agrees to provide insurance set forth in accordance with the requirements herein.

Terumo Cardiovascular shall secure and maintain the following types of insurance with limits as shown:

Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the **Terumo Cardiovascular** and all risks to such persons under this contract.

Commercial/General Liability Insurance – **Terumo Cardiovascular** shall carry General Liability Insurance covering all operations performed by or on behalf of **Terumo Cardiovascular** providing coverage for bodily injury and property damage with a limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- Premises operations and mobile equipment.
- Broad form property damage (including completed operations).
- Personal injury.
- Broad Form Contractual liability.
- \$2,000,000 general aggregate limit.

Products Liability Insurance - **Terumo Cardiovascular** shall carry Products Liability insurance covering all manufactured medical devices of not less than five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate.

Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

All policies, except for Worker's Compensation, shall contain additional endorsements automatically including the **Buyer** and its officers, employees, agents and volunteers as additional insured with respect to liabilities arising out of the performance of services hereunder. The automatic additional insured inclusion shall not limit the scope of coverage for the **Buyer** to vicarious liability but shall allow coverage for the **Buyer** to the full extent provided by the policy.

Terumo Cardiovascular shall require the carriers of required coverages to waive all rights of subrogation against the **Buyer**, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit **Terumo Cardiovascular** and **Terumo Cardiovascular**' employees or agents from waiving the right of subrogation prior to a loss or claim. **Terumo Cardiovascular** hereby waives all rights of subrogation against the **Buyer**.

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the **Buyer**.

Terumo Cardiovascular agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between **Terumo Cardiovascular** and **Buyer** or between **Buyer** and any other insured or additional insured under the policy.

Terumo Cardiovascular shall furnish Certificates of Insurance and additional endorsements as required to the **Buyer** evidencing the insurance coverage at the time the agreement is executed. **Terumo Cardiovascular**' insurance shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the **Buyer**; and, **Terumo Cardiovascular** shall maintain such insurance from the time **Terumo Cardiovascular** commences performance of services hereunder until the completion of such services.

Unless otherwise approved by **Buyer's** Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

Insurance requirements are subject to periodic review by **Buyer**. The **Buyer's** Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of **Buyer**. In addition, if the **Buyer's** Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against **Buyer**, inflation, or any other item reasonably related to the **Buyer's** risk, provided that if **Terumo Cardiovascular** is required to provide additional insurance coverage and/or higher limits of liability, **Buyer** notifies **Terumo Cardiovascular** of such change in requirements thirty (30) days upon making this determination, to allow for appropriate procurement.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to these terms and conditions. **Terumo Cardiovascular** agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of **Buyer** to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of **Buyer**.

11. Licenses, Permits, and/or Certifications:

Terumo Cardiovascular shall ensure that it has all necessary licenses, permits and/or certifications required by Federal, State, County, and municipal laws, ordinances, rules and regulations. **Terumo Cardiovascular** shall maintain these licenses, permits and/or certifications in effect for the duration of the Custom Product Stocking Agreement. **Terumo Cardiovascular** will notify **Buyer** immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of the Custom Product Stocking Agreement.

12. Relationship of the Parties:

Nothing contained in the Custom Product Stocking Agreement or these Terms and Conditions (collectively,

“Contract”) shall be construed as creating a joint venture, partnership, or employment arrangement between the parties hereto, nor shall either party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other party hereto. In the performance of the Custom Product Stocking Agreement, **Terumo Cardiovascular**, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the **Buyer**.

13. Entire Agreement; No Waiver; Severability:

The Contract state the complete understanding between **Terumo Cardiovascular** and **Buyer** on this subject and replace any previous statements, communications or understandings, whether oral or written, solely as it relates to the goods provided under these Terms and Conditions and the underlying Custom Product Stocking Agreement. Any reference to **Buyer's** purchase order number is solely a matter of administrative convenience to **Buyer**. These Terms and Conditions cannot be modified except by a signed writing. A course of dealing or of performance does not affect a waiver or modification unless ratified in writing. A party's failure to exercise a right in one instance does not waive that party's right to later exercise that right. The provisions of these Terms and Conditions are specifically made severable. If a provision of the Terms and Conditions is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

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