



The Terms and Conditions specified herein shall apply to all quotations (“Quotes”) issued by Turbett Surgical, Inc (“Turbett”) to You (“Purchaser”) and to any sale of product (“Goods”) arising from those Quotes, shall constitute the entire agreement (“Agreement”) between Turbett and Purchaser and shall supersede terms of all purchase orders issued or related prior communications and agreements. Turbett’s acceptance of Purchaser’s purchase order is expressly conditioned upon Purchaser’s acceptance of these Terms and Conditions. No waiver, alteration, or modification, no matter how slight, of any of the provisions hereof shall be binding unless in writing, signed by a duly authorized representative of Turbett and any purported waiver, alteration or modification without Turbett’s written consent is hereby rejected. If Purchaser’s purchase order or other documentation contains provisions different from or inconsistent with the provisions hereof, these Terms and Conditions shall prevail. Purchaser’s issuance of a purchase order accepting a Quote issued by Turbett shall constitute Purchaser’s acceptance of all terms and conditions herein.

Turbett will perform a contract review of the Purchaser’s purchase order against Turbett’s quotation prior to accepting the order. Once reviewed Turbett will notify the Purchaser of acceptance or rejection. Turbett reserves the right to refuse the Purchaser’s purchase order for any item or product without cause or reason. Purchaser acknowledges that business conditions may change from the time of Quote to the time of purchase order that may affect quoted lead-times.

All shipments against accepted purchase orders shall be made EXW Turbett (INCOTERMS 2020). Title to any Goods other than Consigned Goods (as defined below) and Equipment (as defined below) shall pass to the Purchaser upon receipt of payment in full for such Goods. All charges for freight, taxes, insurance, brokerage fees, transportation, special packing, duties, custom fees, and value-added and withholding taxes are the responsibility of the Purchaser and, if paid by Turbett, shall be invoiced to and paid by Purchaser.

Purchaser shall inspect the Goods within ten (10) calendar days of receipt (“Inspection Period”). Purchaser shall be deemed to have accepted the Goods unless Purchaser notifies Turbett in writing of any nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Turbett. If Purchaser timely notifies Turbett of any nonconforming Goods, Turbett shall, at its option and in its sole discretion, (i) replace such nonconforming Goods with conforming Goods, (ii) repair such nonconforming Goods so that they become conforming Goods or (iii) credit or refund the Purchase Price for such nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Purchaser in connection therewith. If Purchaser elects to return Goods for any reason other than nonconformity identified during the Inspection Period, Purchaser shall be responsible for all shipping costs to return such Goods to Turbett plus a five percent (5%) restocking fee.

Turbett warrants to Purchaser that for a period of three (3) years for the container and one (1) year for wear items (doors, latches and wheels) from the delivery of the Goods (the “Warranty Period”), that such Goods are free from defects in workmanship and material, when installed and used in the manner, and under the conditions, for which intended. If Purchaser timely notifies Turbett of any nonconforming Goods, Turbett shall, in its sole discretion, (i) replace such nonconforming Goods with conforming Goods, or (ii) credit or refund the price paid for such nonconforming Goods. The warranties set forth in this paragraph do not apply to any Goods that have been subjected to abuse, misuse, neglect, improper testing, improper installation, improper storage, improper handling, abnormal physical stress or abnormal environmental conditions, or have been reconstructed, repaired or altered by any person or entity other than Turbett. **Except for the warranty set forth in this paragraph, Turbett makes no warranty, express or implied, of merchantability, fitness for any particular purpose or application or of non-infringement of any intellectual property rights of a third party. The remedies set forth in this paragraph shall be the Purchaser’s sole and exclusive remedy and constitute Turbett’s entire liability for any breach of the limited warranty set forth in this paragraph. Purchaser agrees that Turbett will in no event be liable for any direct, indirect, incidental, special or consequential damages whatsoever, and in any event, Turbett’s liability under no circumstances shall exceed the price charged for the Goods for which a warranty claim is made.**



Payments are to be made in U.S. dollars by check, credit card, ACH, or wire transfer. Unless otherwise agreed upon in writing, initial payments or deposits are due from Purchaser immediately with the purchase order. Payment for outstanding balances is due within thirty (30) days of delivery or invoice date, whichever is earlier. Turbett may make partial shipments against purchase orders. Each partial shipment may be separately invoiced. Purchaser shall pay each invoice when due in accordance with the Terms and Conditions contained herein. In the event of a delay in payment, Turbett shall be entitled to claim, without any notice of default being required and without prejudice to any further rights it may have, interest at the lesser of a rate of one-and-a-half percent (1.5%) per month or the maximum rate permitted by applicable law. Without limiting Company's rights and remedies at law or in equity, Purchaser shall be responsible for all costs of collection including but not limited to reasonable attorneys' fees.

Upon cancellation of a purchase order by Purchaser accepted by Turbett, Turbett reserves the right to charge Purchaser and Purchaser shall pay Turbett for the cost of work in process scheduled to be shipped and delivered and for all non-cancelable expenses incurred by Turbett to fulfill the Order.

In no way is the Purchaser granted any rights, interest, or license to any patents, patent applications, design copyrights, inventions, discoveries, improvements, methods, ideas, trade secrets, or other related documentation, or other forms of intellectual property, that Turbett may have, covering any aspects related to the Turbett products. Turbett retains for itself all proprietary rights in and to all designs, engineering details, and other data and materials supplied by Turbett.

Purchaser shall comply with all applicable laws, regulations, ordinances and guidances in connection with its use of the products. Purchaser shall maintain all licenses, permissions, authorizations, consents and permits necessary for compliance. Purchaser hereby acknowledges and agrees that unless prior authorization is obtained from the U.S. Department of Commerce, neither Purchaser nor its affiliates will export, re-export, or release, directly or indirectly, any technology received from Turbett, or export, directly or indirectly, any direct product of such technology, (as defined in Part 734 of the EAR), to any destination or country to which the export, re-export or release of the technology or direct product is prohibited.

Turbett may terminate the Agreement if Purchaser fails to make any payment when due or is in breach of this purchase Agreement and such breach is not cured within thirty (30) days of receipt of written notice of such breach or Purchaser becomes insolvent, files a petition for bankruptcy, or has filed against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors. Upon termination for any reason, all unpaid invoice amounts become due immediately or as an alternative, Turbett may, at its option, reclaim all containers, transfer mechanisms, carts and accessories on the Purchaser's purchase order pertaining to the unpaid invoice.

Turbett will have the right to remove all or some of the Consigned Goods and/or Equipment without notice in the event that Purchaser breaches these terms and conditions or any other agreement between the parties. All of the records and reports maintained pursuant to these terms and conditions will, at all times, be maintained at Purchaser and will be subject to inspection upon reasonable notice during normal business hours. Purchaser will provide Turbett employees or authorized representatives with access to Purchaser's facility for inventory audits upon reasonable notice during normal business hours.

These Terms and Conditions, and all accepted purchase orders to which the same apply, shall be construed in accordance with the laws of the State of New York, U.S.A., without regard to its conflicts of law provisions. The authoritative text of these Terms and Conditions shall be in the English language set out herein. Any disputes arising in connection with these Terms and Conditions, and all Sale Contracts to which the same apply, shall be finally settled by binding arbitration, held in the County of Monroe, State of New York. Judgment upon any award resulting from such arbitration is final and binding on both Turbett Inc. and Purchaser, and may be entered and enforced in a court having proper jurisdiction within the County of Monroe, State of New York. The arbitration proceeding shall be conducted in English. The award rendered by the arbitrator will include costs of

arbitration, reasonable attorneys' fees, and reasonable costs for experts and other witnesses. Nothing herein is intended to limit or preclude Turbett Inc. or Purchaser from seeking injunctive relief or any other provisional remedy in order to protect its rights. If any provision of these Terms and Conditions is held invalid, illegal, unenforceable, or in conflict with any law having jurisdiction over this Agreement, the validity, legality, and enforceability of the remaining portions or provisions hereof will not be affected or impaired.

Any assignment of the Agreement by Purchaser without Turbett's written consent, which may be unreasonably withheld, shall be null and void. No assignment or delegation relieves Purchaser of any of its obligations under the Agreement or the Terms and Conditions. No waiver by Turbett of any of the provisions of the Agreement is effective unless explicitly provided in written form signed by an authorized signatory of Turbett. No failure to exercise partially or wholly any right or remedy hereunder may be construed as a waiver thereof. No failure to exercise partially or wholly any right or remedy hereunder shall preclude exercise of such right or remedy or any other right or remedy.

If any term or provision of this Agreement is deemed invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. No agreement or other understanding in any way adding to or modifying the prices, terms or conditions set forth herein shall be binding upon Turbett unless made in writing and signed by Turbett's authorized agent or officer.

Provisions of the Agreement and these Terms and Conditions which by their nature should apply beyond the term of the Agreement, will remain in force after any termination or expiration of the Agreement.

Turbett shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Turbett including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lockouts, strikes or other labor disputes (whether or not relating to its workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication, internet or electronic breakdown or power outage.

Additional Provisions with Respect to Consigned Goods: The following provisions apply to orders relating to Consigned Goods (as defined below) and, to the extent there is any conflict between the following provisions and the preceding provisions, the following provisions shall control with respect to such Consigned Goods.

From time to time, Turbett may but is not required to provide Goods on consignment (such consigned Goods, "Consigned Goods"). All rights, title and interest in the Consigned Goods remain with Turbett until the Consigned Goods are consumed by Purchaser. Purchaser will keep the Consigned Goods free of charges or any security interests and will not pledge or grant a security interest of any kind in any Consigned Goods to anyone. Upon delivery of Consigned Goods, risk of loss of the Consigned Goods passes to Purchaser. Purchaser will store the Consigned Goods in a specifically designated storage area of Purchaser's facility separate from other products. Purchaser will maintain an adequate climate-controlled environment in the storage area for safe keeping and the Consigned Goods will be handled only by properly trained personnel.

It is the expectation that the Consigned Goods will be consumed and replenished on a regular commercially reasonable basis in order to support the mix and quantity of Consigned Goods requested by Purchaser for its patient care needs. Purchaser and Turbett will review the levels and composition of Consigned Goods on a regular basis (no less than semiannually). Periodic adjustments of Consigned Goods may be made by the parties in conjunction with these reviews to achieve a reasonable balance between Consigned Good inventory levels and Purchaser's requirements.

As needed, Purchaser will withdraw and use Consigned Goods on a first-in, first-out basis, ensuring the Consigned Good is suitable for use. Consigned Goods that are either (i) opened and used or (ii) opened and not usable for a subsequent procedure or patient will be deemed consumed by Purchaser (for this purpose, using any item in a multi-pack of the Consigned Goods, shall constitute a use of the entire multi-pack). Purchaser shall promptly (no later than two business days after Consigned Good consumption) provide a purchase order to us for each Consigned Good consumed to facilitate invoicing for and replenishment of such Consigned Good. Purchaser's purchase order will reflect Purchaser's then-current pricing from Turbett, or if no such agreement is in effect, the purchase will be invoiced at Turbett's then current published list price.

Purchaser will maintain in full force and effect insurances in respect of the Consigned Goods in form and substance reasonably satisfactory to Turbett, subject to such exclusions as are usual and customary in the insurance marketplace.

With respect to any Consigned Goods, either party may terminate this consignment arrangement by giving thirty (30) days' prior written notice to the other party. Purchaser will have fourteen (14) days from the effective date of termination to return at Purchaser's sole expense the Consigned Goods to Turbett, and Purchaser shall be invoiced for such Consigned Goods if Purchaser fails to return them.

Turbett's provision of Consigned Goods will not be construed to constitute a promotion or approval by Turbett of uses that are other than, or contrary to, those indications (commonly called "off-label" uses). Turbett will not be responsible for damages or losses of any kind arising out of "off-label" uses. All transactions with Turbett in connection with the Consigned Goods are made in good faith on the basis of arm's-length negotiation. Purchaser will comply with all applicable laws in connection with these terms and conditions and the use of the Consigned Goods and all applicable related regulations.

Additional Provisions with Respect to Equipment: The following provisions apply to orders relating to Equipment (as defined below) and, to the extent there is any conflict between the following provisions and the preceding provisions, the following provisions shall control with respect to such Equipment.

The pod assemblies (the "Equipment") shall remain the property of Turbett at all times, title does not pass to Purchaser and Purchaser will not have any ownership interest in the Equipment. In no event will Purchaser be entitled to transfer or sell the Equipment. Purchaser will keep the Equipment in a safe and secure environment and free from all encumbrances and will provide such reasonably requested documents to Turbett that it deems necessary to maintain its interest in the Equipment. Purchaser shall comply with all laws, ordinances, and regulations with respect to the maintenance and operation of the Equipment. Purchaser shall not make any modifications, alterations or additions to the Equipment. At any time upon reasonable request and during normal hours of operation, Purchaser grants Turbett or its authorized representative full access to the Equipment for inspection, serial or lot number verification or testing.

Turbett may at any time require Purchaser to transfer the Equipment to any third party. Purchaser shall ensure that the Equipment is not issued or transferred to any third party unless instructed or authorized in writing by Turbett.

Purchaser shall return all Equipment in good working order to Turbett upon request. Purchaser shall be solely responsible for packing the Equipment including, without limitation, the trays and dividers included with the Equipment, in a manner designed to ensure safe delivery to Turbett and for all costs of delivery. Purchaser will pay a restocking fee at Turbett's then-current rates for the trays and dividers. Purchaser will be invoiced for any repair costs to restore non-working Equipment to good working order and Purchaser will be invoiced for the fair value of the Equipment if it is not received by Turbett within 15 days of the date of request from Turbett.

All repairs must be performed by Turbett and Purchaser shall be billed for services on a time and materials basis for such work.