

VICONIC HEALTH

Terms and Conditions

All sales of goods by VICONIC HEALTH AND ITS SUBSIDIARIES (“Seller”) to the customer (“Customer”) are subject to and expressly conditioned upon the acceptance of the terms and conditions set forth herein (“Terms”). Customer’s submission of an Order (as hereinafter defined) constitutes Customer’s express consent and agreement to the Terms.

1. Fundamental Understandings.

a. Customer may submit purchase orders to Seller electronically through Seller’s website: <https://www.viconichealth.com/> or other online ordering system at prices quoted by Seller and valid at the time of order (“Order”). At Customer’s request, Seller may (in its sole absolute discretion) also allow its personnel to enter customer orders into Seller’s online ordering system by phone; however, it is expressly understood that Customer is solely responsible for the resulting Order, including but not limited to: (i) confirming the data entries thereto, and (ii) paying for the Order immediately upon Seller’s acceptance.

b. Seller may accept or reject any Order in its sole and absolute discretion. A binding contract will arise only when Seller confirms Customer’s Order in writing (*email sufficient*), as price quotations, online advertisements or other communications from Seller do not constitute offers. Upon acceptance of an Order by Seller, and payment for same, Customer shall receive a tracking number through which to track the shipment of the goods under the Order.

c. These Terms and the Order constitute the entire agreement between Seller and Customer (the “Agreement”). No Seller employee, agent, or representative has the authority to change or amend the terms of the Agreement or to provide special discounts or rebates without specific written authorization signed by a corporate officer of Seller. Seller expressly objects to, and does not accept, any conflicting, modified or additional terms or conditions of Customer including any terms contained in Customer’s standard purchase order or any other document. In case of conflict between these Terms and any other agreement with Customer, these Terms will govern.

d. All sales are final. If Customer desires to cancel or change any order after Payment (as hereinafter defined), Customer will submit a request in writing to Seller, stating the reason for the change or cancellation, and Seller may grant or deny the request in its sole and absolute discretion. If Seller, in its sole and absolute discretion, grants permission to return goods already shipped, (i) Customer will be responsible for coordinating return shipping to Seller, and (ii) Seller will only provide replacement goods for damaged goods which are (a) returned in accordance with the return and replacement guidelines, and (b) determined by Seller to not be the fault of Customer, as outlined under Section 4.

2. Payment and Credit. Customer will pay for all Orders immediately upon acceptance of same by Seller. Shipping costs may be billed separately upon written notice to Customer. In all cases, payments made under any Order are non-refundable, and Customer’s sole remedy for any non-conforming or damages goods under a valid Order shall be to receive replacement goods, subject to (i)

Seller's sole and absolute discretion, and (ii) the return and replacement guidelines outlined under Section 4.

3. Delivery and Risk of Loss.

a. All sales are "FOB delivery." This means that the risk of loss of all goods purchased by Customer passes to Customer when the goods are delivered to Customer's address, as identified in the applicable Order. Additionally, Customer is responsible for (i) any and all shipping costs for the goods under the Order, and (ii) filing any claims for loss, damage or delay as outlined under Section 4. For clarity, "FOB" is used as a commercial term and does not refer to the Incoterms definition.

b. Delivery dates or other times of performance are non-binding estimates and are based on Seller's timely receipt of accurate and complete Orders from Customer and are subject to applicable lead times for the goods ordered, as well as shipment delays by third-party shippers. Goods shall be shipped via FedEx Ground shipping, unless Customer is notified otherwise.

c. Customer will inspect all goods within forty-eight (48) hours of receipt of the goods, including without limitation for defects, correctness of sizing and imperfections. As set forth in Section 4, Customer will notify Seller of any claims in writing; otherwise, Seller will not be liable or responsible for the replacement of any defective goods.

4. Return and Replacement. In order to return any goods under any Order to Seller, and have them evaluated for replacement, Customer must:

a. File a return and replacement claim by emailing Seller at info@viconichealth.com within forty-eight (48) hours of receipt of the goods, it being understood that delivery to Customer's designated address under the applicable Order shall (i) constitute valid delivery, and (ii) trigger the forty-eight (48) hour claim window.

b. Provide a description of the defect or problem in reasonable detail as an attachment to the email in which Customer is making the replacement claim.

c. Provide pictures of the damaged good(s) as an attachment to the email in which Customer is making the replacement claim.

d. Ship the goods back to Seller using a prepaid label which shall be provided to Customer by Seller upon receipt of a valid replacement claim by Customer.

Seller, in its sole and absolute discretion, shall determine whether the goods are eligible for return and replacement by evaluating numerous criteria, including but not limited to: (i) whether the goods were damaged in transit or by the Customer, (ii) whether the damage is material or a natural feature of the goods, and (iii) whether the Customer caused additional damage by failing to adhere to the care instructions included with the goods. Seller will not honor any back charges or informal claims. No sales representative, distributor or agent of Seller is authorized to approve a claim; claims can only be approved by an authorized officer of Seller at its headquarters. All determinations by Seller shall be considered final.

5. Taxes. Prices quoted by Seller do not include (*and Customer shall pay*) taxes, tariffs, duties, or fees of any kind which may be levied or imposed on either party by federal, state, municipal,

or other governmental authorities in connection with the sale of the goods (*except income taxes of Seller due on the sale of the goods*).

6. **Late Payments: Consequences and Cost of Enforcement.** If Customer fails to make a payment when due, or initiates a dispute with Customer's credit card company or Seller's third-party payment processor, Seller may immediately (i) treat the same as a material breach of the Agreement, and (ii) cancel any pending Orders or put any pending Orders on hold until it receives full payment of all amounts outstanding. Customer shall pay interest on all amounts outstanding to Seller at a rate equal to the lesser of 1.5% per month or the highest rate permitted by applicable law, all without prejudice to any other rights Seller may have, including any right to claim actual damages. If Seller permits Customer to pay for an Order via check, and Customer's bank returns a Customer check for non-sufficient funds ("NSF"), Customer is required to repay the amount of the check and all additional charges, including, but not limited to, related NSF fees and other bank fees, immediately upon notice from Seller. Customer will pay all costs of collection of any amounts due to Seller, and all costs of collection, including court costs, reasonable fees and charges of attorneys and their firms and other expenses.

7. **Warranty; Limits on Warranties and Damages.**

a. **EXCEPT FOR SELLER'S OPTION TO REPLACE THE GOODS IN ACCORDANCE WITH SECTION 4 HEREIN, SELLER MAKES NO WARRANTY OF ANY KIND WHATSOEVER, AND SELLER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES (WHETHER EXPRESS OR IMPLIED) , INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, SATISFACTORY QUALITY AND/OR NON-INFRINGEMENT.**

b. **Seller's sole liability under warranty or contract, or on any other basis, is limited to replacement of the goods or a store credit for the purchase price actually paid by Customer, at Seller's sole option.** No employee or agent of Seller has authority to change Seller's warranties without specific written authorization from a corporate officer of Seller addressed to Customer. Seller may give advice about its products, but advice from Seller does not constitute or create a warranty. For the avoidance of doubt, Seller shall have no liability for defects, whether hidden or apparent, resulting from the improper use, installation, care or treatment of the goods, installation by anyone not certified by Seller, for abuse of or failure to maintain the goods once installed.

c. As stated in the foregoing, Seller's sole obligation with respect to defective goods is to repair or correct the goods, or to replace them. **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SELLER BE LIABLE (UNDER ANY THEORY OF RELIEF, INCLUDING, WITHOUT LIMITATION, BREACH OF WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, ARISING OUT OF OR RELATED TO CUSTOMER'S ORDER OR SELLER'S ACTS OR OMISSIONS) FOR: (i) INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, DAMAGE TO PROPERTY, INSTALLATION OR REMOVAL COST, OR LOSS OF USE; OR (ii) ANY DAMAGE OR LOSS IN EXCESS OF THE PURCHASE PRICE ACTUALLY PAID BY CUSTOMER.**

d. Any action by Customer must be commenced within one year after the cause of action has accrued.

8. **Indemnification by Customer.** Customer agrees to defend, indemnify, and hold Seller and its subsidiaries and affiliates, and each of their respective directors, officers, shareholders, agents and employees (each, an “Indemnified Person”) harmless against any loss, liability, demand, damage, claim, action, suit, proceeding, deficiency, reasonable out-of-pocket costs (including, without limitation, reasonable legal and accounting fees), or expenses directly or indirectly relating to, arising from, or in connection with: (i) Customer’s failure to comply with any of its obligations under the Agreement; (ii) Customer’s negligence or willful acts or omissions; and (iii) Customer’s use, installation, care or treatment of the goods. Customer will promptly notify Seller if it becomes aware of any actual or potential claim against Seller.

9. **Force Majeure.** Any delay or failure by a party to fulfill its obligations under this Agreement (*other than obligations to pay money*) will not be deemed a breach to the extent that the failure or delay is caused by Force Majeure. “Force Majeure” means occurrences beyond the control of the parties, such as acts of God, fire, flood, epidemic or pandemic, earthquake, tornado, explosions, riot, war, terrorism, strikes or lockouts at third parties or government acts, orders, and decrees.

10. **Miscellaneous Terms.**

a. The Agreement will be governed by, construed and enforced in accordance with the laws of the State of Michigan. The parties select as the exclusive forum for any litigation related to this Agreement, and irrevocably consent to the exclusive jurisdiction and venue of, the courts of Wayne County, Michigan.

b. The Agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all prior oral or written representations or agreements by the parties with respect to the subject matter of this Agreement. No additional or subsequent terms, conditions, understandings, or agreements purporting to modify the terms of this Agreement will be binding unless in writing and signed by both parties. No employee of Seller has authority to modify this Agreement without written approval of an authorized officer of Seller.

c. The parties desire and intend that all of the provisions of the Agreement be enforceable to the fullest extent permitted by law. If any provision of the Agreement or its application to any person or circumstances is, to any extent, construed to be illegal, invalid or unenforceable, in whole or in part, then the provision will be construed in a manner to permit its enforceability to the fullest extent permitted by law. In any case, the remaining terms of this Agreement or the application of any remaining terms to any person or circumstance other than those which have been held illegal, invalid or unenforceable will remain in full force and effect.

d. The remedies provided for in this Agreement are cumulative and not exclusive. In the event of a breach, the non-breaching party will be entitled to all rights and remedies provided by this Agreement and by applicable law. Any waiver of a breach of this Agreement applies only to the specific breach that has occurred and does not mean that any future (or past) breaches are also waived. Any extension of time for performance of an obligation under this Agreement applies only to that specific obligation or action, and not to any other (past, present, or future) obligations or actions.

e. When used in this Agreement, “including” means “including without limitation” and terms defined in the singular include the plural and vice versa.

f. Each party may maintain records as necessary to support amounts charged to under this Agreement in accordance with the party’s document retention policies.

g. Except as expressly stated herein, each party intends that this Agreement will not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the parties hereto.

h. Any notice or other communication required or permitted under this Agreement must be in writing properly addressed to the identified representative of a recipient as set forth in the Order, email sufficient (or at any subsequent address provided by a party in accordance with the provisions of this Section), and will be effective on the date of actual receipt if the date of actual receipt is a business day or on the next business day if the date of actual receipt is not a business day.