

# Terms and Conditions of Sale

The following terms and conditions of sale constitute an integral part of this Novastep Inc. ("Novastep") product list and are applicable to all purchase orders. All prices and terms are subject to change.

## I. Acceptance of Purchase Orders

All purchase orders are subject to acceptance at Novastep's customer service department located in Orangeburg, New York and will be deemed accepted only when confirmed in writing or upon Novastep's commencement of performance. For convenience, customers may place purchase orders or make inquiries (between the hours of 8:30 a.m. – 5:30 p.m. EST, Monday – Friday, exclusive of all federal and state holidays) by calling toll free 1-877-287-0795, faxing 917.633.5638 or email cs@novasteportho.com.

## II. Payment Terms

Payment is due no later than 30 days from the date of the invoice.

Mail purchase order to:  
Novastep Inc.  
930 Sylvan Ave, Suite 125  
Englewood Cliffs, NJ 07632

Mail payments to:  
Novastep Inc.  
P.O. Box 1291  
Englewood Cliffs, NJ 07632

## III. Additional Charges

All applicable excise, sales, or other taxes will be invoiced to customer and are not included in product prices.

## IV. Shipping and Related Charges

Terms of sale on all purchase orders are F.O.B. shipping point. Each purchase order will incur a shipping and handling charge of \$75.00. All shipments of product will be placed with the carrier for requested 2-day delivery.

*Expedited Shipments:* Customers requiring expedited delivery will be invoiced for the change associated with the expedited delivery.

*Shipping Damage:* Although Novastep takes special care in the packaging of its products, damage may occur in transit. All products must, therefore, be inspected and any damage noted on the freight bill and reported to the carrier, upon receipt of product. Although Novastep's responsibility for damage ceases upon deposit with carrier, Novastep may extend assistance in helping customer settle damage claims.

## V. Return Goods and Related Charges

*Return Authorization/Repairs:* Customer must obtain a return authorization number from Novastep or Novastep account representative before any Novastep product can be returned for repair, replacement, refund, or credit. To obtain a return authorization number, customer must provide Novastep with (1) the Novastep catalog number and quantity of Novastep product to be returned; (2) the reason for the return/repair; (3) a description of the Novastep product being returned for repair; (4) the name and telephone number of a customer contact who may be called if Novastep requires further information; and (5) at least one of the following: (i) the applicable customer purchase number, (ii) the applicable Novastep invoice number, and (iii) the applicable Novastep product lot or serial number. A purchase order is required for all repairs even in situations where there is no charge. If the Novastep product to be repaired is covered by a written limited product warranty, a copy of the original invoice must be sent with the Novastep product. The cost of repair not covered by a written limited product warranty must be paid by the customer.

*Non-Returnable Products:* Customer is not entitled to return nor eligible to receive repair, replacement, refund, or credit for any Novastep product described below (collectively, "Non-Refundable Products"):

- Product damaged in transit;
- Product shipped in error and returned more than 30 days after the date of the applicable Novastep invoice (unless such product is subject to a recall arising out of the negligent acts or omissions of Novastep (a "Quality Recall));
- Non-defective product return in quantity less than Novastep's original unit of sale;
- Non-defective product returned more than 90 days after date of applicable Novastep invoice (unless part of a Qualified Recall);
- Defective product returned after expiration of applicable warranty period (unless part of a Qualified Recall);
- Product sold non-sterile that has been subjected to sterilization processing;
- Product sold for single use that has been re-used or re-processed;
- Product that has been altered, further manufactured, packaged, processed, abused, or misused;
- Product that has been adjusted or repaired by anyone other than by Novastep or a person or entity authorized in writing by Novastep; and
- Product that is a "custom" device unless such product is defective for a reason other than manufacture to customer's specifications.

*Authorized Return Products and Freight Charges:* With regard to those Novastep products (other than Non-Returnable Products) for which customer has obtained a return authorization number. Novastep will accept returns for such products if they are: (1) determined by Novastep to be defective and returned within applicable warranty period; (2) no defective, in saleable condition and returned within 90 days of the corresponding Novastep invoice date and represent product shipped in error by Novastep (such products, collectively, "Authorized Return Products"). All Authorized Return Products must be returned freight prepaid by customer. All Authorized Return Product returned freight collect will be refused by Novastep and returned to customer at its expense. Novastep will, at its option, refund or credit customer for all freight

charges incurred in connection with returning to Novastep any Authorized Return Product.

*Allowance Schedule for Authorized Return Products:* For those Authorized Return Products that Novastep has elected to provide a refund or credit, Novastep will pay a refund or issue a credit to customer within 30 business days of Novastep's receipt of the Authorized Return Product, based on the original purchase price, in accordance with following:

CONDITION	CREDIT
Defective product returned within applicable product warranty period	Full Credit*
Non-defective product returned in a saleable condition within 45 days of corresponding Novastep invoice date	Full Credit*
Non-defective product returned in saleable condition within 46-90 days of corresponding Novastep invoice date	Full Credit* minus 20% reprocessing charge min. \$10.00 charge
Product shipped in error by Novastep and returned in saleable condition within 45 days of corresponding Novastep invoice date	Full Credit*
Product subject to a Qualified Recall	Full Credit*

\*Less any credits issued by Novastep to customer with respect to such product.

## VI. Confidentiality

Customer will not disclose to any third party these terms and conditions, including the Product List, or any other information provided by Novastep to customer, without Novastep's written approval, except as may be required by law or lawful order of any applicable government agency.

## VII. Limited Product Warranty; Disclaimer and Limitation of Liability

Novastep warrants to the original purchaser that each Novastep product set forth in the Product List will be free from defects in material and workmanship for the period set forth in the labeling of the particular Novastep product or, if no such period is set forth in the labeling, for a period of one (1) year from date of purchase. If Novastep product proves to be so defective, such Novastep product may be returned to Novastep for repair, replacement, refund or credit at Novastep's option, in accordance with Novastep's return goods and allowance policy. Any alteration, abuse, misuse, further manufacture, packaging, processing, adjustment or repair by any person or entity other than Novastep or a person entity authorized in writing by Novastep shall void this limited product warranty ab initio. THIS LIMITED PRODUCT WARRANTY IS IN LEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE LIABILITY AND REMEDY STATED IN THIS LIMITED PRODUCT WARRANTY WILL BE SOLE LIABILITY OF NOVASTEP AND REMEDY AVAILABLE TO CUSTOMER FOR NOVASTEP PRODUCTS WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND NOVASTEP WILL NOT BE LIABLE TO CUSTOMER FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES. IN NO EVENT WILL NOVASTEP BE LIABLE FOR ANY CLAIM, LOSS OR DAMAGE ARISING OUT OF OR RELATING TO, IN WHOLE OR IN PART, ANY PURCHASE ORDER, THESE TERMS AND CONDITIONS OR OTHERWISE, IN EXCESS OF THE AMOUNT PAID BY CUSTOMER TO NOVASTEP PURSUANT TO THE PURCHASE ORDER TO WHICH CLAIM, LOSS OR DAMAGE RELATES.

## VIII. Product Changes

All products and product specifications identified in the Product List are based upon the information available to Novastep at the time of publication. Novastep reserves the right to discontinue any product or to change any product specifications without notice.

## IX. Termination

Any customer purchase order may be terminated by Novastep as follows: (1) upon 30 days prior written notice to customer; (2) effective immediately, if customer commits a material breach of any provision of the purchase order or these terms and conditions and such breach continues for a period of 30 days following notice; or (3) effective immediately, if the customer files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law or makes or seeks to make a general assignment for the benefit of its creditors or applies for or consents to the appointment of a trustee, receiver, or custodian for its or substantial part of its property.

## X. Force Majeure

Novastep will not be liable for its failure to perform or a delay in performance of any order due to strikes, fire, explosion, flood, riot, lock out, injunction, interruption of transportation, unavoidable accidents, acts of government or a public enemy, terrorism, inability to obtain supplies at reasonable prices, or other causes beyond its control.

## XI. Choice of Law

All transactions under these terms and conditions shall be governed by and construed in accordance with the laws of the State of New York as applicable to contracts made and to be performed in that state, without regard to conflicts of laws principles.

## XII. General

NONE OF THE FOREGOING TERMS AND CONDITIONS MAY BE MODIFIED EXCEPT UPON NOVASTEP'S EXPRESS WRITTEN CONSENT STATING THAT IT IS AN AMENDMENT OR MODIFICATION THERETO.

In the event of any inconsistency between these terms and conditions of sale and those contained in any purchase order, purchase order release, confirmation, acceptance, or any similar document, the terms and conditions set forth above shall prevail. These terms and conditions of sale constitute the entire understanding between Novastep and customer and supersede all prior terms and conditions of sale published by Novastep, in each case, related to the subject matter hereof.