

Terms and Conditions of Sale

Except as otherwise agreed to in writing by Avancen MOD Corporation, the following terms and conditions will apply to all orders received and all sales made by the Avancen MOD Corporation.

General Terms of Sale. Purchase of any products sold by Avancen MOD Corporation shall be subject to and expressly limited by the terms and conditions contained herein. No changes to, waiver of, or addition to any of these terms and conditions shall be effective unless agreed to in writing and signed by Avancen MOD Corporation. Buyer acknowledges and agrees that these terms and conditions supersede the terms and conditions of any purchase order or other documentation used by Buyer and, except for delivery and billing addresses, and quantities prices and items ordered, any conflicting or additional terms are void and have no effect, but that Buyer may place orders by use of purchase orders and other documentation for its convenience purposes only. Notwithstanding the foregoing, Avancen MOD Corporation reserves the right at any time to amend these terms and conditions, and Buyer shall be deemed to accept such amended terms and conditions by ordering products herein offered after the date of such amendment. Additional special terms and conditions of Avancen MOD Corporation may be applicable with respect to certain products, primary or ancillary.

Minimum Order Quantity. MODs may be purchased in any amount. Disposable products relating to the MOD must be ordered in full case quantities. Orders received with a value of less than \$200.00 will be subject to a handling charge of \$25.00. Wholesalers and Distributors are subject to a handling charge of \$75.00 for orders less than \$1,000.00.

Prices. All pricing quotes must be documented in writing and signed by Avancen MOD Corporation to be valid. All price/quotations expire 30 calendar days from the date quoted unless otherwise noted in writing. The price to Buyer for any Products shall be the applicable published price or valid written quote in effect at the time of order entry.

Lease/Lease to Purchase/Rental Terms. Avancen MOD Corporation hereby may lease/rent its Equipment for the period commencing on the date indicated on the lease/rental agreement and ending upon its pick up from or drop off to an authorized shipping company, subject to charge for the applicable lease/rental period. Unless otherwise specified, a lease/rental is for a minimum period specified in the Agreement. For all purposes under this Agreement, title to the Equipment, if any, shall at all times remain in Avancen MOD Corporation until the term of the lease/rental is complete and/or payment in full for all equipment, including any ancillary products and applicable taxes, is received. Lessee/renter shall pay Avancen MOD Corporation the lease /rental amount as determined by the schedule of fees provided by Avancen MOD Corporation. No allowance will be made for Sundays, holidays, delays due to strike, time in transit, or for any period of time the Equipment may not be in actual use while in Lessee's/Renter's possession. Fees shall become due and payable as provided in the Agreement. Rates are for normal and reasonable use of Equipment. The Lessee/Renter will be billed for any damage to the equipment identified upon its return, including the cost of any required repairs, beyond what is customarily considered normal wear to the equipment.

Tax Information. Except as otherwise expressly stated herein, prices do not include federal, state or local sales, use, goods and services, excise or other similar taxes applicable to goods or services involved in this transaction. All such taxes shall be paid by Buyer, unless Buyer provides Avancen MOD Corporation with evidence satisfactory to Avancen MOD Corporation of exemption from such taxes (resale/exemption certificate). When Avancen MOD Corporation is required by law or regulation to collect such taxes, Buyer agrees that Avancen MOD Corporation will add such taxes to the sale price of the goods or services. If Avancen MOD Corporation is required to prepay any tax or fee, Buyer will reimburse Avancen MOD Corporation. No refund or adjustment to previously withheld taxes will be made by Avancen MOD Corporation sixty (60) days after the invoice date. Proof of certification should be mailed to: Avancen MOD Corporation, 1156 Bowman Road, Suite 200, Mount Pleasant, SC 29464 or faxed to (413)674-9225.

Payment. Payment terms are net 30 days from date of invoice. All payments shall be in U.S. Dollars. Credit card payments will not be accepted without prior approval from Avancen MOD Corporation. Buyer's obligation to pay outstanding invoices and all other amounts is absolute and unconditional and is not subject to any abatement, reduction, set-off, defense, counterclaim, interruption, deferment or recoupment for any reason whatsoever. Any invoiced amount which is not paid when due may bear interest at the rate of one and one-half percent (1 1/2 %) per month or the highest rate then permitted by law, whichever is less, until paid in full. Any disputed amounts must be reported immediately and remitted with the undisputed amount by the payment due date. If Avancen MOD Corporation agrees with the billing dispute, Avancen MOD Corporation will credit Buyer the

amount of the agreed-upon billing dispute. All billing disputes must be made within six (6) months of the applicable invoice date or will be deemed to be waived.

Avancen MOD Corporation reserves the right in its sole discretion to require prepayment from any Buyer at any time and may refuse to sell and/or withhold further shipment until all overdue balances are made current. Buyer shall be liable for, and shall promptly reimburse Avancen MOD Corporation for all costs and expenses it may incur in connection with collection of any amounts owed to Avancen MOD Corporation or enforcement of its rights, including without limitation, reasonable attorneys' fees and expenses, court costs, and cost of collection agencies incurred by Avancen MOD Corporation in collecting sums due it hereunder.

Returned Goods Policy. Product returns are subject to the following conditions:

All returns are subject to the prior authorization of Avancen MOD Corporation, in its sole discretion. Notice of the claimed defect must be made in writing or by telephone to Avancen Customer Service. Notice to Avancen MOD Corporation must include model and serial number, and a description of the claimed defect in sufficient detail to allow Avancen MOD Corporation to determine and facilitate any repairs that may be necessary. AUTHORIZATION MUST BE OBTAINED PRIOR TO RETURNING THE PRODUCT and confirmed with issuance of a Return Authorization Number. When authorized, the Product must be properly and carefully packaged and returned to Avancen MOD Corporation. Any loss or damage during shipment is at the risk of the sender. Contact Avancen MOD Corporation at 1-800-607-1230 or via the website at www.avancen.com.

Credit will be issued at the net purchase price for all authorized returns provided:

- Proper authorization has been obtained prior to return of products.
- Products are in their original packaging.
- Products are within the warranty period
- The Products have been shipped and billed to Buyer by Avancen MOD Corporation, and Buyer has paid for said Products.

Certain Products are not eligible for return. These are:

- Products that have deteriorated because of improper handling, abuse or other factors.
- Products that have been opened, partly used or which the labels or seals have been removed or tampered.

Credits for returned goods are conditioned upon Avancen MOD Corporation's inspection and approval of such goods upon their return. If Avancen MOD Corporation determines, in its sole discretion, that any returned goods are not eligible for return due to any of the reasons provided, Buyer will not receive a credit, even if a Return Authorization Number was issued. No advance credits will be accepted/provided.

Warranty. Avancen MOD Corporation warrants all MOD[®] devices, disposables, and accessory products ("Product") to be free of defects in material and workmanship under normal use if used in accordance with user reference materials supplied with the device, subject to the following conditions:

The duration of the Avancen warranty is limited to one (1) year from the date of sale or the initial lease to the procurer of the MOD[®] devices, including batteries and accessories. THERE ARE NO OTHER WARRANTIES. No other express warranties are made with respect to any Product. All implied warranties, including warranties of merchantability and fitness for a particular purpose, are limited to the warranty period set forth above. The Product can only be used under the supervision of medical personnel whose skill and judgment determine the suitability of the Product for any particular medical treatment or patient. This warranty is not transferable and applies only to the original purchaser or leaseholder of the Product. Avancen MOD Corporation, as its sole obligation under this warranty, will replace or repair at its option any defective component or item and pay transportation expenses for such replacement. Buyer shall provide labor for the removal or reinstallation of the product or accessories at no charge to Avancen MOD Corporation. Buyer shall bear all risk of loss or damage to returned goods while in transit. In the event no defect or breach of warranty is discovered by Avancen MOD Corporation upon receipt of any returned item, the item will be returned to Buyer at Buyer's expense and Buyer will reimburse Avancen MOD Corporation for the transportation charges, labor and associated charges incurred in testing the allegedly defective item. Products may be repaired or replaced with new or with refurbished items. This limited warranty does not cover defect in appearance, cosmetic, or decorative items, including any non-operative parts. Under NO circumstances will Avancen be liable for any incidental or consequential damages under this warranty or any implied warranties. These remedies are the customer's exclusive remedies for breach of warranty. This limited warranty only extends to customers who purchase the Product in the United States of America. The warranty is void and Avancen MOD Corporation will not be responsible for damage resulting from any (i) deviation of use from Avancen operating instructions as printed in the Avancen User Guide or on any packaging, labels, or other literature provided with a Product; (ii) installation of a Product in a manner which is inconsistent with Avancen's written

instructions; (iii) alteration or modification of a Product; (iv) misuse; (v) neglect, (vi) abuse, (vii) accident, (viii) normal wear and tear, (ix) improper cleaning; (x) improper storage; (xi) environmental conditions, including excessive temperature or humidity; (xii) service by anyone other than authorized Avancen repair personnel; (xiii) other improper application, installation, or operation of the Product; (xiv) use of non-approved accessories; or (xv) defects or malfunctions of which Avancen is not advised within ten (10) days of the expiration of the limited warranty period. This warranty gives the Original Purchaser specific legal rights, and the Original Purchaser may have other legal rights, which may vary from state to state. **No person, representative, agent, or employee of the manufacturer is authorized by Avancen MOD Corporation to modify or add to this limited warranty.**

With respect to disposable products, Avancen MOD Corporation warrants to the original purchaser that, at time of delivery, each standard product manufactured by Avancen MOD Corporation shall be free of defects in material and workmanship and, when used for the device, is fit for the device. All warranties for a product shall expire as of product expiration date, or if none, after one (1) year from the date of shipment from Avancen MOD Corporation. The warranty furnished hereunder does not extend to damage to items purchased hereunder resulting in whole or in part from the use of components, accessories, parts or supplies not furnished by Avancen MOD Corporation.

Except as expressly provided herein, Avancen MOD Corporation makes no representation or warranty of any kind, expressed or implied with respect to any products, parts or services provided by Avancen MOD Corporation including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. Products distributed, but not manufactured, by Avancen MOD Corporation are not warranted by Avancen MOD Corporation and Buyer must instead rely on the representations and warranties, if any, provided directly to Buyer by the manufacturer of such product. The sole and exclusive remedy for breach of any warranty is limited to the remedies provided herein.

Law and Safety Regulation Compliance. As Avancen MOD Corporation has no control over the use of the Equipment by purchaser or lessee, purchaser/lessee agrees, at its sole expense, to comply with the most current version of all CODES OF SAFE PRACTICES, all laws and regulations, including the Occupational Safety and Health Administration Act of 1970 (OSHA) and all other federal, state and local laws, regulations and ordinances, which may affect the Equipment while it is in the possession of purchaser/lessee. Purchaser/lessee shall indemnify and hold Avancen MOD Corporation harmless from any liability or expense, including attorney's fees, resulting from any actual asserted violations of such laws, regulations and ordinances. The indemnity of purchaser/lessee provided for under this paragraph shall incorporate all indemnity provisions of any applicable sections hereof.

Force Majeure. Avancen MOD Corporation shall use all reasonable efforts to fill orders in a timely manner, but not be liable for delay in performance or nonperformance of any of its obligations hereunder, in whole or in part, if such performance is rendered impracticable by the occurrence of any contingency or condition beyond the control of either Avancen MOD Corporation or its suppliers. This includes but is not limited to war, sabotage, embargo, riot, terrorism, or other civil commotion, failure or delay in transportation, act of any government or any court or administrative agency thereof (whether or not such action proves to be invalid), labor or transportation problems, accident, fire, explosion, flood, earthquake or other casualty, shortage of labor, fuel, energy, raw materials, manufacturing problems, or machinery or technical failure. If any such contingency or condition occurs, Avancen MOD Corporation may allocate production and deliveries in any reasonable manner and may include in such allocation any regular customers, whether or not then under contract, and Avancen MOD Corporation's own requirements. If, as a result of any such contingency, Avancen MOD Corporation's performance is delayed by more than six (6) months, the prices set forth herein shall be subject to appropriate adjustment by Avancen MOD Corporation.

Shipping: Freight charges will be prepaid when orders are shipped via a transportation mode and carrier selected by Avancen MOD Corporation. Unless otherwise stated in an agreement, shipment will be made F.O.B. Origin. When expedited delivery, specialized service, or alternate transportation modes are requested, or if requests are inconsistent with efficient distribution practices, an additional charge to cover the premium expense will be added to the invoice. Inside deliveries or multiple deliveries are subject to additional charges based on current common carrier rates or hourly rates. Orders will be shipped within 72 hours of order receipt.

Proof of Delivery: Avancen MOD Corporation will provide proof of delivery upon request. If excessive requests are made in regards to delivery proof, Avancen MOD Corporation may charge a service fee to offset its administrative costs.

Damage or Loss in Transit: Identity of items and extent of damage or loss must be noted on Buyer's copy of delivery document by the agent of the transportation company. If damage is discovered after receipt of shipment, notify the transportation company immediately and request that inspection be made and an inspection report rendered. Concealed shortages or damages within palletized shipments must be reported to Avancen MOD Corporation Customer Support within 3 business days

of delivery or credit will not be allowed. Avancen MOD Corporation will issue a credit for the loss or damage and file a claim with the carrier, providing your request is promptly forwarded to Avancen MOD Corporation and received within ten (10) days of delivery. This claim request must be accompanied by a delivery receipt or an inspection report upon which the transportation company has properly noted such damage or loss.

Send copy of carrier freight bill to Customer Support indicating item and quantity damaged or not received.

Count and inspect your freight before carrier departs. Damaged merchandise should not be accepted.

Please forward all information to Attn: Customer Support, Avancen MOD Corporation, 1156 Bowman Road, Suite 200, Mount Pleasant, SC 29464. (800) 670-1230.

For Order Placement: Avancen MOD Corporation welcomes orders by telephone, mail or by fax. For telephone orders, please call (800) 670-1230. Mail orders should be directed to Attn: Customer Support, Avancen MOD Corporation 1156 Bowman Road, Suite 200, Mount Pleasant, SC 29464. For fax orders, please dial (413) 674-9225.

Cancellation. The Avancen MOD Corporation may charge a cancellation fee according to the (a) quantity being canceled, (b) time frame between Buyer's request to Avancen MOD Corporation to cancel and the order's scheduled ship date, and (c) dollar amount of order being cancelled. The calculation of the exact cancellation charge will be at Avancen MOD Corporation's sole discretion.

Buyer is entitled to receive a written notice from Avancen MOD Corporation setting forth how the cancellation charge was calculated. Avancen MOD Corporation reserves the right, by written notice of default, to cancel any order, without liability to Buyer, in the event of the happening of any of the following: insolvency of Buyer, the filing of a voluntary petition in bankruptcy by Buyer, the filing of an involuntary petition to have Buyer declared bankrupt, the appointment of a receiver or trustee for Buyer, the execution by Buyer of an assignment for the benefit of creditors, the discontinuance of business by Buyer, or the sale by Buyer of the bulk of its assets other than in the usual course of business.

Order Reschedule. Buyer may only reschedule an order with Avancen MOD Corporation's written consent, which may be granted or withheld in Avancen MOD Corporation's sole and absolute discretion. A reschedule should not extend further than an additional thirty (30) calendar days from original ship date requested. Reschedules may be subject to a ten percent (10%) penalty, as determined by Avancen MOD Corporation, based on total amount of the order or portion of the order rescheduled.

Product Resale. Buyer agrees that it shall not resell any Products purchased from Avancen MOD Corporation unless Buyer is an authorized distributor of Avancen MOD Corporation's products. Avancen MOD Corporation shall not be obligated to provide any warranty service or other technical support for any Products not purchased directly from Avancen MOD Corporation or any authorized distributor of Avancen MOD Corporation.

Miscellaneous:

1. If the pricing offered by Avancen MOD Corporation to a Buyer constitutes a discount or other reduction in price under Section 1128(b) (3) (a) of the Social Security Act 42 U.S.C. 1320a-7b (b) (3) (a), and C.F.R. § 1001.952(h), Buyer shall disclose the discount or reduction in price to the fullest extent required under any state or federal program that provides cost or charge-based reimbursement to Buyers for products. This act requires, among other things, that Buyer fully and accurately report on any claim or request for payment it submits to Medicare and Medicaid the actual purchase price paid by Buyer for products, net of any discounts, rebates or allowances. Buyer may also be required, upon request, to provide documentation of the discount or other reduction in price to the Secretary of Health and Human Services.
2. In all cases, all intellectual property rights shall be and remain the exclusive property of Avancen MOD Corporation.
3. Any knowledge or information that Buyer may disclose to Avancen MOD Corporation shall not be deemed to be confidential or proprietary information, and shall be acquired by Avancen MOD Corporation free from any restriction.
4. Any required notices to either Avancen MOD Corporation or to the buyer will be given in writing and shall be deemed given upon personal delivery with signature, or any method of delivery that requires a time stamp and signature. For purposes of written notice, Avancen MOD Corporation will use the address set forth below, and in the case of Buyer, at the address designated on Buyer's purchase order or to such other address as either party may substitute by written notice to the other.
5. Except as expressly provided herein, no changes or modifications to, or waiver of, any of these terms and conditions shall be valid or binding on either party unless in writing and signed by an authorized representative of each party. Avancen MOD Corporation's failure or delay to exercise or enforce any of its rights hereunder shall not constitute or be deemed to be a waiver of such rights or forfeiture of such rights, and Avancen MOD Corporation may, at its option, from time to time, exercise any of its rights or remedies.
6. These Terms bind Buyer and its successors and permitted assigns.
7. The products are sold subject to South Carolina law. These terms and any dispute or claim relating to these terms or the sale of products ("Claim") shall be governed by and construed under South Carolina law, notwithstanding its law of conflicts of law. If any Claim cannot be settled amicably between the parties, such Claim shall be settled by arbitration, in accordance with the

Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator(s) shall be final and binding upon the parties and judgment upon the award may be entered in any court having jurisdiction thereof.

8. Avancen MOD Corporation shall promptly deliver written notice or verbal notice followed by written, notice of any recall of Product. Should the recall require Products to be removed from the market, Avancen MOD Corporation shall, to the extent reasonably possible and at Avancen MOD Corporation's option, replace any such recalled Products as soon as practicable with comparable Products not subject to such recall.
9. Buyer may not change, adulterate, obscure, remove or deface trademarks, tradenames or labels appearing on any Product of Avancen MOD Corporation.
10. Avancen MOD Corporation shall not in any event be liable to buyer for any indirect, incidental, special, punitive or consequential damages (including any damage for lost profits), or otherwise arising out of or in connection with furnishing of products, parts or service hereunder, or the performance, use of, or inability to use any products, parts or service, or otherwise, whether based in contract, warranty, tort, including without limitation, negligence, or any other legal or equitable theory. Avancen MOD Corporation's total liability for any claim or action shall not exceed the purchase price of the products out of which such claim or action arose.
11. Buyer acknowledges that it is familiar with the Safe Medical Devices Act of 1990 (the "Devices Act") and the reporting obligations imposed on device users thereunder. In this regard, Buyer agrees to notify Avancen MOD Corporation within ten (10) days of the occurrence of any event identified in the Devices Act imposing a reporting obligation on Buyer and/or Avancen MOD Corporation (except for events representing an imminent hazard that require notification to the United States Food and Drug Administration (the "FDA") within seventy-two hours, in which case, such notice will be delivered to the other party immediately). Buyer shall maintain adequate tracking for the products to enable Avancen MOD Corporation to meet the FDA requirements applicable to the tracking of medical devices
12. Buyer represents it has examined the products and that they are acceptable and clinically suitable for its intended purposes.