

United States

Standard Terms and Conditions of Sale – Products

These standard terms and conditions of sale (“Terms”) apply to all orders received from and all sales made to customer (“Customer”) by Standard Bariatrics, Inc. (“SBI”), a Teleflex Incorporated company, for products (“Products”). SBI’s offer to sell Products to Customer, and SBI’s acknowledgment of any purchase order or other Customer document (“Order”) is hereby expressly limited to and conditioned on Customer’s acceptance of these Terms. The applicability of terms contained in Customer’s Order is limited to the identification and the quantity of Products ordered. SBI objects to and rejects all other Customer terms, in any form, that are different from or additional to these Terms, except that if a written contract is already in effect between SBI and Customer for purchase of the ordered Products, the terms of that contract will prevail to the extent that those terms are inconsistent with these Terms. SBI reserves the right to change these Terms at any time without notice. Any Orders placed after these Terms are changed will be subject to the amended Terms.

1. **Credit Terms.** If Customer qualifies, SBI may extend credit to Customer after approval of credit application, in which case Customer shall pay for Products in full based on the payment terms specified in SBI’s invoice. If at any time Customer’s financial condition becomes unsatisfactory to SBI, in SBI’s sole discretion, or if Customer fails to make any payment when due, in addition to any other rights SBI may have, SBI may defer or decline to make any shipments hereunder or may condition any such shipments on receipt of satisfactory security or cash payments in advance.
2. **Orders.** Order quantities must meet stated minimums for Products. All Orders are subject to acceptance by SBI, which may be in writing or electronic record delivered to Customer or by shipping Products. SBI may accept any Order in whole or in part, and SBI’s shipment of less than all Products ordered will constitute acceptance of the Order only as to those Products shipped. Customer may cancel a pending Order, in whole or in part, for Products (other than special order, private label or otherwise custom Products) only by written notice to SBI Customer Service prior to SBI processing the Order. Any request to cancel an Order after processing is subject to SBI’s written approval, and SBI reserves the right to charge a restocking fee with respect thereto.
3. **Taxes.** Prices do not include any applicable taxes, tariffs, duties, fees, or charges of any type imposed by any governmental authority, whether federal, state, local or foreign, in connection with the Order. If applicable, a separate charge for any such taxes, tariffs, duties, fees or charges will be shown on SBI’s invoice, and Customer is responsible for, and agrees to, their payment in full (unless when the Order is submitted Customer provides SBI with an exemption certificate or other documents satisfactory to SBI and acceptable to taxing or custom authorities). Customer shall reimburse SBI the amount of any such taxes, tariffs, duties, fees or charges that SBI is required to prepay.
4. **Delivery and Risk of Loss; Security Interest.** Except as otherwise expressly stated herein, all deliveries will be F.O.B. SBI’s shipping point, and will be packed in SBI’s standard commercial shipping packages. Title and risk of loss or damage will pass to Customer when SBI has delivered the Products to the carrier for shipment to Customer. Customer hereby grants to SBI, and its successors and assigns, a security interest in all Products until all amounts due or to become due under these Terms have been paid, and agrees, without further consideration, to execute and deliver all documents reasonably requested by SBI to perfect its security interest.
5. **Shipping.** All applicable shipping charges are the responsibility of Customer and will be prepaid by SBI and invoiced to Customer or paid directly by Customer. Shipping and delivery dates are estimates only. SBI reserves the right to fill Orders with multiple shipments. Products may be placed on backorder at SBI’s sole discretion, and if Product availability is limited for any reason, SBI may fill orders or otherwise allocate Products in any manner it deems appropriate. Under no circumstances will SBI be liable for failure to deliver or for Customer’s failure to receive Products by a certain date. Orders with requested shipment directly to a patient, temporary/mobile site or residential address will not be filled.
 - **Standard Freight Terms.** Customer bears full costs and risks of moving the goods from SBI’s shipping point to the requested shipping destination, and shall promptly reimburse SBI for all freight charges, including but not limited to premiums for freight insurance, inspection fees, assessments, express delivery charges and all other costs incurred in transporting Products to the shipping destination. SBI assumes no liability for any Products damaged during transit, but will extend assistance to help Customer settle claims with the carrier; contact SBI Customer Service by phone at 513-620-7751 or by email at orders@standardbariatrics.com.
 - **Expedited Orders.** Expedited Orders are only processed when specifically requested by Customer at the time of ordering. Requests for expedited parcel Orders must be received by SBI before 2pm eastern time, and include the exact level of service requested (e.g., Second Day, Overnight, Overnight Early AM) and a valid address to which the designated carrier delivers. Expedited Orders are not eligible for free freight of any type, and Customer is responsible for

all freight charges as prepaid and added to SBI's invoice, or through provision of a third-party collect account number. SBI assumes no liability for the reliability or outcome of requests for expedited Orders.

6. **Acceptance and Returns.** Customer shall inspect Products promptly upon their receipt. Any damage should be noted on the freight bill and reported to the carrier. Unless Customer notifies SBI Customer Service in writing within 10 calendar days after receipt of the Products of shipping discrepancies or that the Products are upon inspection non-conforming or defective, describing the alleged non-conformance or defect in reasonable detail, Customer will be deemed to have accepted the Products. Products delivered and accepted under these Terms are not returnable except in accordance with SBI's Return Goods Policy, available at <https://standardbariatrics.com/>.
7. **Payment Terms.** Customer shall pay the amount stated on SBI's invoice within 30 calendar days from the invoice date unless otherwise expressly stated in these Terms. All amounts payable under these Terms are denominated in the currency invoiced unless expressly agreed otherwise by SBI in writing. Customer shall promptly notify SBI Customer Service at orders@standardbariatrics.com in writing of any disputed invoice, and shall not make any discounts or setoffs against any invoices unless approved in advance by SBI. Any invoiced amount not paid when due may, in SBI's sole discretion, bear interest at the rate of 1.5% per month or the highest rate then permitted by law, whichever is less, until paid in full. SBI reserves the right to exercise any of its lawful remedies if Customer fails to make payments when due, and Customer shall promptly reimburse SBI for all costs and expenses, including but not limited to reasonable attorneys' fees, incurred by SBI in collecting sums due it under these Terms. Customer will be subject to a fee of \$50.00 for any checks returned unpaid to SBI for any reason.
8. **Force Majeure.** Each of SBI and Customer will be excused from any default in its obligations under these Terms, other than the payment of money due, resulting from any act or event beyond its reasonable control, including but not limited to acts of God, accident, fire, flood, storm, riot, war, sabotage, explosion, strike, lockout, labor disturbance, pandemic, epidemic, governmental action, inability to obtain raw materials, labor, component products or transportation, failure of normal sources of supply, or any similar or different contingency that would make performance or timely performance commercially impracticable. The party relying on any of these acts or events of force majeure shall notify the other thereof promptly after it becomes known to that party. If any of these acts or events of force majeure exceed 60 calendar days, then either party may, as its sole remedy, cancel outstanding Orders to the extent not previously fulfilled by notifying the other party in writing. Neither party will be liable for damages resulting from such cancellation.
9. **Limited Warranty.** Unless a more specific limited warranty is expressly granted in the Instructions For Use, or Operating Manual if applicable, published by SBI for the Product ("Product Documentation") (in which case such warranty governs), SBI warrants that, subject to the exceptions stated herein, each Product will substantially conform to the published specifications contained in the Product Documentation and will be free from defects in materials and workmanship, from the date of purchase until the expiration date printed on the Product's packaging or, if no such expiration date applies, for one year from the date of purchase (as applicable, the "Warranty Period"). The foregoing warranty will be void and of no effect if the Product is: (a) stored, installed, maintained, operated or used in any manner inconsistent with the Product Documentation, (b) subjected to abuse, misuse, neglect, mishandling, accident or unusual physical or environmental (including but not limited to thermal or electrical) stress; or (c) repaired, altered or modified other than by SBI authorized service personnel.

THE FOREGOING WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES NOT EXPRESSLY STATED HEREIN, WHETHER EXPRESS OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE FOREGOING WARRANTY IS GIVEN SOLELY TO THE ORIGINAL CUSTOMER AND IS NOT GIVEN TO, NOR MAY IT BE RELIED UPON BY, ANY THIRD PARTY. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO CUSTOMER. CUSTOMER MAY ALSO HAVE OTHER RIGHTS, WHICH VARY, FROM STATE TO STATE.

SBI'S SOLE OBLIGATION AND CUSTOMER'S EXCLUSIVE REMEDY FOR BREACH OF THE FOREGOING WARRANTY IS, AT SBI'S OPTION, TO REPAIR OR REPLACE THE NON-CONFORMING OR DEFECTIVE PRODUCT OR TO CREDIT TO CUSTOMER'S ACCOUNT THE PURCHASE PRICE PAID BY CUSTOMER FOR THE NON-CONFORMING OR DEFECTIVE PRODUCT. All claims for breach of the foregoing warranty shall be made by Customer, by contacting SBI Customer Service in accordance with SBI's Return Goods Policy, available at <https://standardbariatrics.com/>, to obtain a return goods authorization, within the applicable Warranty Period and no later than 60 calendar days after discovery of the alleged non-conformance or defect in the Product. Unless otherwise directed in writing by SBI, within 60 calendar days after receiving a return goods authorization, Customer shall package the allegedly non-conforming or defective Product in its original shipping carton, or a functional equivalent, and ship it to SBI for inspection and verification of the alleged non-conformance or defect. SBI shall reimburse Customer for its reasonable documented shipping costs of returning the Product, and assume the risk of loss or damage to such returned Product while in transit, after verification by SBI of the alleged non-conformance or defect. If no breach of the foregoing warranty is discovered by SBI upon receipt of the returned Product, to

the extent practicable the Product will be returned to Customer at Customer's expense, and Customer shall reimburse SBI for its shipping costs. All warranty claims not made in compliance with this section shall be deemed to have been waived.

- 10. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, (A) SBI'S LIABILITY AND OBLIGATIONS WITH RESPECT TO ANY CLAIM(S) RESULTING OR ARISING FROM OR RELATING TO THESE TERMS, WHETHER IN CONTRACT, STRICT LIABILITY, TORT OR OTHERWISE, AND EVEN IF CUSTOMER'S EXCLUSIVE REMEDY FAILS OF ITS ESSENTIAL PURPOSE, WILL IN NO EVENT EXCEED IN THE AGGREGATE THE TOTAL PURCHASE PRICE RECEIVED BY SBI FOR THE PRODUCTS ORDERED BY CUSTOMER, AND (B) SBI SHALL IN NO EVENT BE LIABLE TO CUSTOMER OR ANY OTHER PERSON OR ENTITY, WHETHER IN CONTRACT, STRICT LIABILITY, TORT OR OTHERWISE, FOR ANY LOST PROFITS OR SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES OF ANY KIND WHATSOEVER, EVEN IF SBI HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.
- 11. Unauthorized Distribution; Import/Export; Export Control.** Unless authorized by SBI in writing in advance, Customer shall not resell or distribute Products outside the country to which SBI ships Customer's Order. The sale of Products in violation of this section voids SBI warranties to the extent permitted by applicable law. If Customer is outside the United States and approved by SBI to import Products at the final intended destination, then Customer will be responsible for obtaining all required import licenses and making proper customs entry for the Products. For routed export shipments out of the United States, Customer is responsible for meeting applicable United States export regulations and declarations. Customer shall not re-export any Products from the destination country. Customer further acknowledges that the Products and any related software and technical information provided under these Terms are subject to U.S. and other export laws and regulations. Customer shall not export, re-export, transfer or transmit the Products, or any such software or technical information, except in compliance with all such laws and regulations. At SBI's request, Customer shall sign written assurances and other export-related documents as may be required for SBI to comply with export laws and regulations.
- 12. Intellectual Property Ownership.** Subject to any license necessary for Customer's use of a Product that incorporates software, no transfer of any right, interest, ownership or any intellectual property will occur under these Terms. SBI or, if applicable, SBI's licensor retains all interest to software, modifications, improvements, upgrades, derivative works and all other intellectual property rights in connection with the software incorporated in or used by the Products. Customer will have no right to or interest in any SBI intellectual property, including but not limited to copyrights, trade secrets, know how, patents, websites, internet domain name registrations, trademarks or trade names, applied for, owned, used or claimed now or in the future by SBI, its affiliates or licensors.
- 13. Safe Medical Device Act.** If Customer files with the U.S. Food and Drug Administration ("FDA") an FDA Form 3500A or a similar form of medical device report under the federal Safe Medical Device Act, regarding the Products or any part of the Products, then Customer shall simultaneously furnish to SBI a copy of the form or report. Customer shall maintain adequate tracking for the Products to enable SBI to meet the FDA requirements applicable to tracking of medical devices. If SBI recalls the Products or any part of the Products, Customer shall cooperate fully with SBI in implementing the recall, including but not limited to by returning the Products to SBI to the extent that SBI requests.
- 14. Fraud and Abuse.** Each party represents that it has never been debarred, excluded or suspended by the Office of Inspector General of the Department of Health and Human Services; otherwise deemed ineligible to participate in federal healthcare or procurement programs, or to the extent applicable, state healthcare or procurement programs; or convicted of a criminal offense regarding health care reimbursement.
- 15. Discount Reporting Obligations.** If the pricing offered to Customer hereunder constitutes "a discount or other reduction in price" for purposes of the federal Anti-Kickback Statute ("AKS") discount exception (42 U.S.C. §1320a-7b(b)(3)(A)) and the AKS discount safe harbor (42 C.F.R. §1001.952(h)), Customer shall disclose the discount or reduction in price to the full extent required under any state or federal program that provides cost or charge-based reimbursement to Customer for Products. Customer may also be required, upon request, to provide documentation of the discount or other reduction in price to the Secretary of the Department of Health and Human Services and/or state agencies. Customer shall make written request to SBI if Customer requires additional information from SBI to meet its reporting requirements.
- 16. Access to Books and Records.** Until the expiration of four years after the furnishing of services under these Terms, SBI shall make available upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, these Terms and such books, documents and records of SBI as are necessary to certify the nature and extent of the costs under these Terms. If SBI carries out any of its duties under these Terms through a subcontract, for the value or cost of \$10,000 or more over a 12-month period, the subcontract must contain a clause placing the same duty on the subcontractor as these Terms place on SBI. If applicable law or regulations are effectively amended to increase or decrease the annual amount necessary to require this clause, the amount stated herein will be amended accordingly. Notwithstanding the presence of this section in these Terms, this section only applies if the actual dollar amount paid during any 12-month period equals or exceeds the government threshold amount.

- 17. Confidentiality.** SBI may disclose confidential information to Customer, including but not limited to invoice terms, Product pricing and new product introductions. Customer shall not use, publish or disclose, or cause anyone else to use, publish or disclose, such confidential information without SBI's prior written consent, except information subject to legal process or if Customer can demonstrate the information was already known to, independently developed by, or publicly available to Customer prior to SBI's disclosure, or as otherwise permitted by these Terms. If disclosure is required by law, Customer agrees to provide prompt notice to SBI before any disclosure.
- 18. Applicable Law and Venue.** These Terms and the transactions contemplated hereby are governed by, and to be construed in accordance with, the laws of the Commonwealth of Pennsylvania, without regard to the conflicts of law principles thereof. The United Nations Convention on Contracts for the International Sale of Goods will not, for any purpose, govern or apply to the sale of any Products hereunder. Any legal action relating to the Products shall be commenced and maintained exclusively before the Pennsylvania state court of record in Montgomery County, Pennsylvania or the United States District Court for the Eastern District of Pennsylvania. By purchasing the Products, Customer hereby submits to the jurisdiction of those courts and waives any right to challenge or otherwise raise questions of personal jurisdiction or venue in any action commenced or maintained therein. Each party hereby waives any right to jury trial in connection with any legal action in any way arising out of or related to these Terms.
- 19. Assignment; No Third-Party Beneficiaries.** Customer shall not transfer or assign these Terms or any interest herein, by operation of law or otherwise, without SBI's prior written consent. Any attempted transfer or assignment without such consent will be void. SBI may assign its rights and delegate its duties under these Terms. The rights and remedies conferred under these Terms apply only to SBI and Customer, and are not to be construed to inure to the benefit of or to provide any right of action to any other person or entity, including but not limited to any patient or third-party payor.
- 20. Miscellaneous.** These Terms contain the entire agreement, and supersede any prior written or oral agreements or understandings, between SBI and Customer regarding the subject matter hereof. The express terms hereof control and supersede any course of performance or usage of the trade inconsistent with any of these Terms. No failure by SBI to insist on strict performance of any of term or condition hereof will constitute a waiver of such term or condition or any breach thereof, nor will such failure in any way affect SBI's legal remedies regarding any default by Customer hereunder. No addition to or waiver, modification or cancellation of any provision of these Terms will be binding upon SBI unless in writing and signed by a duly authorized representative of SBI. If any provision of these Terms is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will, to the extent permitted by law, not in any way be affected or impaired thereby.