

These Terms and Conditions are for Home Patient orders only. Any In-Center and Hospital orders placed for In-Center or Hospital use are subject to Baxter's Online Terms and Conditions for Baxter Renal Products (In-Center and Hospital Use) found at the following link:

[https://www.baxter.com/terms-conditions-sale.](https://www.baxter.com/terms-conditions-sale)

DIRECTORY OF SERVICES

HomeCare Services / Order Entry (Home Patients)

Hours: Monday through Friday 7:00 am - 6:00 pm CST

1-800-284-4060

Fax: 1-800-666-8457

HomeCare Services Web Portal Support

<https://homecareservices.baxter.com/>

1-800-284-4060

eServices/EDI Support

<http://ecomm.baxter.com>

1-877-334-2298

ecteam@baxter.com

Sales Inquiries

1-888-736-2543

Parts and Equipment Service

On-site Service

Emergency On-site Service (7 days a week)

1-800-553-6898

Hours: 8:00 am - 5:00 pm local time

Hours: 8:00 am -10:00 pm EST

Global Technical Services

Peritoneal Dialysis Operational Support (24/7/365 days a year)

Hours: 8:30 am - 5:00 pm EST

1-800-553-6898

Clinical Support

1-888-736-2543

Product Surveillance

1-888-736-2543

Hardware Billing

1-800-553-6898

Credit and Collections

Hours: 7:00 am - 5:00 pm CST

1-888-270-3189

Pharmacy Services

Hours: Monday through Friday 7:00 am - 6:00 pm CST

1-800-417-1434

1. General Terms and Conditions of Sale

ALL BAXTER HEALTHCARE CORPORATION (“BAXTER”) SALES ARE SUBJECT TO AND EXPRESSLY CONDITIONED UPON THESE TERMS AND CONDITIONS OF SALE (THE “TERMS AND CONDITIONS”), WHICH ARE ACCEPTED BY, AND SHALL BE DEEMED BINDING ON, THE PURCHASER UPON PLACING AN ORDER FOR PRODUCT(S) (“PRODUCT”). BAXTER’S TERMS AND CONDITIONS, AS AMENDED FROM TIME TO TIME, ARE AVAILABLE ONLINE AT <https://www.baxter.com/terms-conditions-sale>, WHICH IS ACCESSIBLE BY PURCHASER. **BAXTER RESERVES THE RIGHT AT ANY TIME TO CHANGE THESE TERMS AND CONDITIONS WITHOUT NOTICE.** BAXTER WILL UPDATE ITS WEBSITE AS THESE TERMS AND CONDITIONS ARE CHANGED; SUCH CHANGES SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING OF THE MODIFIED TERMS AND CONDITIONS. IT IS PURCHASER’S RESPONSIBILITY TO REVIEW THE LATEST VERSION OF THESE TERMS AND CONDITIONS PRIOR TO SUBMITTING AN ORDER. BAXTER HAS NO RESPONSIBILITY TO NOTIFY PURCHASER OF ANY CHANGES PRIOR TO THE EFFECTIVE DATE OF THE CHANGES. ANY ORDERS PLACED AFTER THESE TERMS AND CONDITIONS ARE CHANGED SHALL BE SUBJECT TO SUCH AMENDED TERMS AND CONDITIONS. NO VARIATION OF THE TERMS AND CONDITIONS WILL BE BINDING UPON BAXTER UNLESS AGREED TO IN WRITING AND SIGNED BY AN AUTHORIZED EMPLOYEE OF BAXTER.

1.1. No Reselling, Transfer or Export

Purchaser agrees that Product purchased from Baxter is not for: a) resale, transfer, barter or trade to any entity or person; b) use in the further processing, packaging or filling of other drugs, therapies or devices; or c) export. Neither Purchaser nor Home Patient shall transfer any Product to any other person or entity except to the person for whom the prescription is written. Any unused Product, once dispensed or delivered to Home Patient or Purchaser, cannot be transferred to any other patients and must be destroyed in accordance with applicable state or local regulations or returned to Baxter per the guidelines outlined in Baxter’s Returned Goods policy, listed in Exhibit A to these Terms and Conditions.

1.2. Drug and Service State Licensing Requirements

Purchaser agrees to maintain all state-mandated licenses and permits required to purchase, use, and dispense Baxter Product. Purchaser shall provide all applicable licenses and permit information to Baxter promptly upon request.

1.3. Tax, Tax-Exempt Status and Other Fees

Purchaser agrees to pay all applicable federal, state, and local taxes (including property taxes); license and registration fees; and all other fees and costs based on Purchaser’s lease, rental, purchase, possession or use of Product. A Purchaser that is exempt from taxation is required to provide valid certification of its exempt status to Baxter’s Master Data Center of Excellence. (1-877-329-0003; Fax 1-847-948-2540).

1.4. No Prohibited Use of Product

Purchaser will not knowingly use, resell, transfer or distribute any Product directly or indirectly for the development, production or proliferation of weapons of mass destruction, or missile delivery systems and/or for any terrorist activities.

2. Definitions

The following definitions apply to these Terms and Conditions:

2.1. **AFTER HOURS DELIVERY** shall mean any Order placed (i) outside of Normal Business Hours or (ii) on Baxter designated holidays.

2.2. **COURTESY NOTIFICATION** shall mean that Baxter will make best efforts to provide a courtesy notification to the Purchaser of record for Home Patient Orders that result in Off-Schedule Orders, Expedited Orders, Home Patient Re-Delivery, After Hours Delivery and travel Order requests. Baxter will not track any Courtesy Notification provided to Purchaser and any such Courtesy Notification is not required in order to charge Purchaser the fee associated with the service. Purchaser is responsible for setting expectations with Home Patients around managing product inventory and Scheduled Orders. A Courtesy Notification will not be

provided for a Home Patient Re-Delivery when such Home Patient requests a re-delivery for which the purpose is to bring Product into such Home Patient's home or otherwise move Product.

- 2.3. **DISPOSABLE** shall mean any product manufactured or sold by Baxter, other than Equipment or Parts.
- 2.4. **EQUIPMENT** shall mean durable medical devices, hardware, instruments and instrumentation used primarily or in support of dialysis, multi-organ extracorporeal support therapy for critically ill patients, liver support therapy, ultra filtration treatment of fluid overloads and/or multiple intensive care therapies which are manufactured, provided as a rental or sold by Baxter for its intended use.
- 2.5. **EXPEDITED ORDER** shall mean any order, which may be filled in Baxter's sole discretion, placed for delivery with less Lead Time than outlined in Sections 2.12 and 3 of these Terms and Conditions.
- 2.6. **FORCE MAJEURE EVENT** shall mean nonperformance or delay of performance caused by strikes, lockouts, concerted acts of workers or other industrial disturbances, fires, explosions, floods, or other natural catastrophes, civil disturbances, riots, or armed conflict, whether declared or undeclared, curtailment, shortages of power or materials, rationing or allocation of normal sources of supply, labor, materials, transportation, energy, or utilities, accidents, acts of God, sufferance of or voluntary compliance with acts of government or governmental regulation, (whether or not valid) embargoes, discontinuation of a Product or any other cause which is beyond the commercially reasonable control of Baxter.
- 2.7. **HOMECARE WEB PORTAL** means any applicable on-line tools to allow Hospitals and Centers to manage Home Patient transactions. Key functions may include: new patient set-up, status change, and prescription management. HomeCare Web Portal is the preferred vehicle for Purchaser and Home Patients to manage Home Patient transactions with Baxter. Please contact HomeCare Services at 1-800-284-4060 for details or to set up a HomeCare Web Portal account.
- 2.8. **HOME PATIENT** shall mean an individual for whom Purchaser (i) holds an active prescription on file with Baxter and (ii) is providing CAPD, APD or HD therapy in such individual's home.
- 2.9. **HOME PATIENT RE-DELIVERY** shall mean an additional delivery to a Home Patient's requested delivery address following an unsuccessful delivery attempt to such Home Patient. Home Patient Re-Delivery shall include circumstances when a Home Patient requests a re-delivery, the purpose of which is to bring Product into such Home Patient's home or otherwise move Product from its originally delivered location.
- 2.10. **HOME PATIENT SCHEDULED ORDER** shall mean an Order placed for delivery to an established Home Patient address per the established Order schedule, generally once every four (4) weeks on 28-day order cycles, preferably submitted using the HomeCare Web Portal.
- 2.11. **HOME PATIENT OFF-SCHEDULE ORDER** shall mean requested Orders outside a Home Patient Scheduled Order cycle, including usage and prescription changes.
- 2.12. **LEAD TIME** shall mean the time from Order placement to delivery of Product. Orders must be placed no later than 12:00 pm local time in the time zone of Purchaser's local Baxter distribution center to be deemed placed on that business day. Orders placed after 12:00 pm local time will be deemed placed on the following business day.
- 2.13. **NORMAL BUSINESS HOURS** shall mean Monday through Friday, 7 AM to 6 PM CST.
- 2.14. **OFF-SCHEDULE ORDER** shall mean requested Orders outside a Purchaser's Order cycle.
- 2.15. **ORDER** shall mean any order for Product placed through Baxter or an authorized distributor.
- 2.16. **PART** shall mean a component manufactured or sold by Baxter for Equipment.
- 2.17. **PRODUCT** shall mean Disposable, Equipment, Part, ancillaries or any combination thereof.
- 2.18. **PURCHASER** shall mean the legal entity purchasing Product for the provision of Automated Peritoneal Dialysis ("APD"), Aquapheresis Therapy ("AQS"), Continuous Ambulatory Peritoneal Dialysis ("CAPD"), Continuous Renal Replacement Therapy ("CRRT"), Hemodialysis ("HD") therapy, Molecular Absorbent Recirculatory System ("MARS") and/or Therapeutic Plasma Exchange ("TPE"). Such entities include, but are not limited to, hospitals and/or hospitals and their affiliated outpatient dialysis clinics ("Hospitals") and other licensed, outpatient dialysis centers ("Centers").

2.19. **SCHEDULED DELIVERY** shall mean the day and estimated time of delivery for each Home Patient Scheduled Order (excluding deliveries made by third party companies such as UPS) and Scheduled Order to a Hospital or Clinic.

2.20. **SCHEDULED ORDER** shall mean an Order placed for delivery to a Hospital or Clinic per the established Order schedule.

3. **Order/Delivery**

3.1. **Orders**

All Orders for Product shall be subject to these Terms and Conditions and shall not be subject to the terms, conditions, or provisions of any Order confirmation or Purchaser purchase order, except to the extent that such document specifies quantities.

- a. All Products are subject to discontinuation at Baxter's sole discretion. Products are subject to availability based on Baxter's current Product portfolio.
- b. Purchaser agrees that, upon reasonable notice to Purchaser, Baxter may allocate Product among Purchasers in Baxter's reasonable judgement.
- c. Baxter may, at Baxter's sole discretion, substitute any Product ordered with Substitute Product at equivalent pricing. "Substitute Product" shall mean clinically suitable alternative replacement product in terms of safety, efficacy, indications, and usage, which may be marketed, sold, and/or distributed in the United States pursuant to an approval, clearance, allowance, Emergency Use Authorization, temporary importation authorization, or other regulatory discretion determination issued by the U.S. Food and Drug Administration (the "FDA").

In Lieu of any other warranties, Baxter warrants that Substitute Product will meet, at the time of sale, all conditions required by the FDA for its approval, clearance, allowance, Emergency Use Authorization, temporary importation authorization, or other regulatory discretion determination. The FDA may, at any time, rescind or modify any Emergency Use Authorization, temporary importation authorization, or other regulatory discretion determination.

- d. All Orders require a valid purchase order supplied by the Purchaser. In the event of a conflict between a purchase order and these Terms and Conditions or the underlying purchase agreement between the parties, these Terms and Conditions and the underlying purchase agreement shall control.
- e. Any modification by Purchaser to a contract regarding pricing, terms of sale or any other terms or conditions shall not be effective unless accepted in advance and in writing by an authorized representative of Baxter.
- f. Order quantities must be in the selling unit of measure indicated. Pack factors are noted for reference only.

3.2. **Force Majeure**

Baxter will use commercially reasonable efforts to fill Orders, but Baxter shall not be liable for nonperformance or delays caused by a Force Majeure Event.

3.3. **Bulk Orders**

Unless otherwise approved in writing by Baxter, each Home Patient Order placed by Purchaser shall not exceed fifty-five (55) cases of Disposable Product for new Home Patients and forty (40) cases of Disposable Product for prevalent Home Patients ("Bulk Orders"). If Purchaser or Home Patient places a Bulk Order, such Bulk Order shall be subject to a charge of one thousand dollars (\$1,000.00).

3.4. **Prescription Requirement**

Baxter will not ship any Order for a Home Patient without a prescription, signed and dated by a physician, which lists Product codes, quantities and the allowable refill period, not to exceed one (1) year. All new APD Home Patient prescriptions must also include a HomeChoice, HomeChoice Pro, HomeChoice Claria, or AMIA Equipment rental. Such Equipment cannot be shipped until a signed prescription is on file.

Prescriptions should be managed and e-signed through the HomeCare Web Portal. Verbal and facsimile changes to prescriptions will be assessed a processing fee of fifty dollars (\$50.00) per prescription change.

Purchaser may obtain copies of prescriptions at no charge through the HomeCare Web Portal. Copies of prescriptions through other modes will be assessed a processing fee of forty dollars (\$40.00) per prescription.

3.5. Lead Time

Home Patient Orders, including Home Patient Equipment, must be placed, with signed prescriptions on file with Baxter, no later than five (5) business days prior to the Scheduled Order date or requested ship date. While HomeCare Web Portal is the primary and preferred manner to place Orders, Baxter will continue to take Home Patient Orders by telephone or fax. Any complete Order received less than five (5) business days prior to the Scheduled Delivery date will be considered an Expedited Order and will be subject to charges as described in Section 3.10.

3.6. Minimum Order Charge

All Orders that are less than two hundred fifty dollars (\$250.00) will be subject to a charge of forty (\$40.00) dollars. Exemptions will be permitted only for deliveries required to correct Baxter error or Home Patient Orders (except as otherwise noted herein).

3.7. Scheduled Orders

- a. Upon initiation of a new Home Patient account, Baxter will establish a Home Patient Scheduled Order calendar that includes targeted delivery dates and targeted Scheduled Delivery. Home Patient delivery days shall be set according to this schedule.
- b. Baxter offers some flexibility in its Home Patient Order cycles. Purchaser requests for fourteen (14) day (or fewer) Order cycles will be assessed a twenty-five (\$25) surcharge for each Order placed (a "14 Day Order Cycle").
- c. Purchaser and Home Patient Order frequency and scheduling will be maintained in Baxter's transaction management system.
- d. Home Patient will receive a calendar indicating necessary Order placement and Scheduled Delivery days. Clinicians requiring a copy of Home Patient's order and delivery schedule must utilize HomeCare Web Portal to obtain a copy.

3.8. Off-Schedule Orders to Hospitals or Centers

Each Off-Schedule Order will be assessed a one hundred fifty dollar (\$150.00) service fee. Exemptions will be permitted only for (a) deliveries correcting Baxter error; (b) domestic travel Orders subject to Section 3.11, Travel Orders; and c) new Orders.

3.9. Re-Delivery

Orders requiring Re-Delivery are subject to a charge of seventy-five dollars (\$75.00).

3.10. Expedited Orders

- a. The Expedited Order processing charges are:

Same Business Day Delivery*	Next Business Day Delivery*	Second Business Day Delivery*	Third Business Day Delivery*	Fourth Business Day Delivery*
\$500.00	\$400.00	\$300.00	\$250.00	\$200.00

- b. Expedited Orders to Alaska and Hawaii may be subject to additional freight charges.
- c. Expedited Orders placed for After Hours Delivery are subject to the Expedited Order processing charge in Section 3.10.a, plus an additional charge of two hundred fifty dollars (\$250.00).

3.11. Travel Orders

- a. Travel Orders for destinations within the continental U.S. (excluding all cruises regardless of departure port) require a Lead Time of fourteen (14) business days. Travel Orders received with Lead Time of nine (9) to five (5) business days will be subject to a one hundred dollar (\$100.00) fee. Travel Orders with less than five (5) days Lead Time will be subject to a one hundred fifty dollar (\$150.00) fee plus any applicable Expedited Order fees.
- b. Through the Global Destinations Program, peritoneal dialysis Home Patients can successfully continue their therapy while traveling outside of the continental U.S., including Alaska and Hawaii and cruises from any port, domestic or international. Home Patient is responsible for the shipping and handling costs associated with the Order delivery. The handling cost for a Global standard order (>30 days' notice) is one hundred dollars (\$100.00) while the handling cost for a Global Expedited Order (<30 days) is two hundred dollars (\$200.00). Shipping fees vary and are calculated based on travel destination. To place an order through the Global Destinations Program, call 1-800-284-4060.

3.12. **Proof of Delivery**

The Baxter invoice and packing list must be retained as proof of delivery. Subject to availability and within thirty (30) days following the date of shipment, requests for additional documentation of delivery (e.g., carrier delivery logs) will be subject to a service charge of forty dollars (\$40.00).

Delivery to a Hospital or Center shall be made to a receiving or loading dock.

3.13. **Safe Environment**

Purchaser and Home Patient shall ensure Baxter drivers and agents may safely and securely enter Home Patient's designated place of delivery in order to deliver Product. Upon risk to Baxter's drivers or agents, as determined in Baxter's sole discretion, Baxter may immediately cease deliveries of Product to Home Patient or Purchaser.

BAXTER HOME PATIENT SERVICE FEE SUMMARY CHART

SERVICE	DEFINITION	PRICE	EXCLUSIONS	INVOICE CODE
14 Day Order Cycle	Home Patient Orders set for 14 day cycles or less	\$25.00 per Order	Baxter error New Patient Orders	RENSERVICE14
Expedited Order	Home Patient orders, which may be filled in Baxter's sole discretion, placed for delivery with less than five (5) days Lead Time prior to the requested delivery date	4 days Lead Time - \$200.00 3 days Lead Time - \$250.00 2 days Lead Time - \$300.00 1 day Lead Time - \$400.00 0 day Lead Time - \$500.00	Baxter error New Patient Orders Travel Orders	RENEOC*
Home Patient Off-Schedule Order	Home Patient requested orders outside a Home Patient's Scheduled Order cycle, including usage and prescription changes	\$150.00 per Order	Baxter error New Patient Orders Travel Orders	RENOFF*
Home Patient Re-Delivery	Home Patient orders when a Home Patient's requested delivery address following an unsuccessful delivery attempt to such Home Patient	\$75.00 per event	Baxter error	RENRED*
After Hours Delivery	Home Patient orders requested to be delivered outside of normal business hours defined as Monday to Friday, 7 AM to 6 PM CST, and including Baxter designated holidays	\$250.00 per Order	Baxter error	RENAHC*
Verbal or Fax Prescription Change	Baxter oversees the processing of a Home Patient prescription via fax or over the phone	\$50.00 per event	Prescription approvals fully processed via HomeCare Web Portals, including DirectAccess www.baxter.com/homecare/services or Sharesource Purchaser Service Portal	RENFAX RENVERBAL
Travel	Overseeing and processing of Home Patient orders specified for alternate delivery locations	\$100.00 to \$150.00 per order depending on Lead Time. Travel Orders placed with less than five (5) days Lead Time are also subject to the Expedited Order fee	Baxter error	RENTRAVEL*
Bulk Order	Home Patient Orders that exceed fifty-five (55) cases of Disposable Product for new Home Patients and forty (40) cases of Disposable Product for prevalent Home Patients	\$1,000.00 per Order	Baxter error	Manual Bulk Order

*Courtesy Notification

4. Freight, Distribution and Shipping

4.1. Freight and Distribution

Published prices for Equipment and Parts do not include delivery, handling and installation. These charges will be arranged and billed separately, if applicable.

Purchaser is responsible for all freight and distribution charges for Products when Expedited Order processing and delivery is required, unless specifically provided in these Terms and Conditions.

All shipments are considered "contiguous USA only" unless otherwise mutually agreed to in writing by Purchaser and Baxter.

4.2. Shipping Terms and Risk of Loss

- a. Except as otherwise permitted herein, Disposable items are shipped FOB Destination (freight prepaid by Baxter), and the risk of loss on any Disposable shall pass to Purchaser when Purchaser receives the Disposable. Notwithstanding the foregoing, all Disposables shipped to Purchasers in Alaska and Hawaii will be subject to a twenty percent (20%) price premium above contracted price to cover shipping and handling charges.
- b. Equipment is shipped FOB Origin (freight charges are prepaid by Baxter and shall be added to Purchaser's invoice as separate line item charges). The risk of loss on Equipment passes to Purchaser upon Baxter's shipment from Baxter's shipping point. Purchaser agrees, at Purchaser's own cost and expense, to keep the Equipment fully insured against destruction and loss from the date of shipment of the Equipment until the amounts owed are paid in full. Upon Baxter's request, Purchaser will provide Baxter with proof of such insurance.
- c. Notwithstanding the foregoing, Baxter reserves the right at any time to ship Disposable items FOB destination, Freight Collect (Purchaser will be responsible for shipping and handling; the costs prepaid by Baxter and added to Purchaser's invoice).
- d. Title to all Products except for Equipment shall pass to Purchaser upon receipt by Purchaser. Title to Equipment shall pass to Purchaser upon full payment of all applicable fees under the applicable Equipment agreement. Notwithstanding the foregoing, title to HomeChoice, HomeChoice Pro, HomeChoice Claria, and AMIA automated peritoneal dialysis system cyclers shall remain with Baxter.

5. Billing and Payment

5.1. Terms of Sale

All Orders are subject to credit approval and acceptance at Baxter's home office. Standard payment terms are net thirty (30) days from the date of invoice. Payment terms are in effect as of the date of the order. Payment is made to the "remit to" address indicated on the invoice. Credit card payments are subject to approval by Baxter's Credit and Collections department.

A service charge of one and one-half percent (1½%) per month (or the highest amount allowed by applicable law, if lower) shall be added to all amounts past due. Additionally, Baxter reserves the right to require payment in advance of shipment.

5.2. Prices

Product is priced at the amount indicated for the selling unit of measure ordered. Prices and specifications are subject to change without notice. All shipments are billed at the price in effect on the date of the order. Product, with the exception of Equipment, is billed upon shipment. Equipment is billed after implementation. Product prices are exclusive of all taxes, discounts or rebates.

5.3. Discount Disclosure Statement

Any discounts, rebates, incentives, or other reductions in price issued by Baxter to Purchaser under these Terms and Conditions may constitute a discount within the meaning of 42 U.S.C. §1320a-7b(b)(3)(A) and/or 42 U.S.C. §1320a-7b(b)(3)(C). Purchaser may have an obligation to properly disclose and appropriately reflect such discount to any state or federal program that provides cost or charge based reimbursement to Purchaser

for the items to which the discount applies. Purchaser agrees to make proper disclosures of any and all discounts, rebates, credits, reimbursement and other like programs. Purchaser agrees to comply with all applicable laws when seeking reimbursement from any government entity for Products supplied under these Terms and Conditions. Baxter will report all discounts on the invoices, coupons or statements submitted to Purchaser. Where the value of a discount is not known at the time of sale, Baxter will report the existence of the discount program on the invoices, coupons or statements submitted to Purchaser, and when the value of the discount becomes known, provide Purchaser with documentation of the calculation of the discount identifying the specific goods or services purchased to which the discount will be applied.

For Product provided to Purchaser, Purchaser acknowledges the value of such Product. Purchaser further acknowledges that this dollar value is a "discount or other reduction in price" on the Product under Section 1128B(b)(3)(A) of the Social Security Act (42 U.S.C. 1320-a-7b(b)(3)(A)). Purchaser shall disclose the discount or other reduction in price under any state or federal program which provides cost or charge-based reimbursement to Purchaser.

5.4. **Credit and Disputes**

- a. Only amounts which are disputed in good faith may be withheld from payment pending resolution. Any portion of an invoice not in dispute must be remitted within the payment terms of each sale. All disputes must be submitted in writing to Baxter's Credit and Collections Department (contact information noted on page 1 of these Terms and Conditions) within thirty (30) days from the date of invoice. All disputes or rights are waived unless the Purchaser's complaint has been received by Baxter within such thirty (30) day period.
- b. If Purchaser disputes an invoice or portion of an invoice and such dispute is invalid or incorrect, Purchaser will pay additional charges referenced above (in Section 5. Billing/Payment) on any unpaid amounts in dispute. Such charges will begin to accrue on the date payment was originally due.
- c. Baxter reserves the right to place a hold on Product deliveries to Home Patients or Purchaser in accordance with Baxter's Home Patient/Customer Order Hold Procedure (available on request) should Purchaser continue to withhold payment after multiple attempts to obtain an approved payment commitment.

6. **Warranties**

6.1. **DISPOSABLE PRODUCT WARRANTY**

Baxter warrants that Disposable Product manufactured by Baxter, when used in accordance with the directions on the labeling, is fit for the purposes and indications described on the labeling. The applicable manufacturer under the manufacturer's warranty will cover Disposable Product not manufactured by Baxter, and Baxter provides no warranty for Disposable Product not manufactured by Baxter.

The warranty does not apply to any Disposable Product that is misused, abused, neglected, tampered with or damaged intentionally by accident, flood, water, fire or other hazard. If Disposable Product is not used in accordance with manufacturer's instructions, Disposable Products warranties are void and of no effect. There are no other express or implied warranties, including any warranty of merchantability or fitness for a particular purpose. Baxter shall not be liable for proximate, incidental, or special damages.

All warranties in these Terms and Conditions shall be construed to comply with the warranty Safe Harbor found at 42 C.F.R. 1001.952(g).

THE WARRANTY IN THIS SECTION SHALL BE IN LIEU OF ANY OTHER WARRANTY EXPRESSED OR IMPLIED OR STATUTORY RESPECTING DISPOSABLE PRODUCT, AND BAXTER MAKES NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PURCHASER'S SOLE AND EXCLUSIVE REMEDY IN CONTRACT, TORT OR UNDER ANY OTHER THEORY AGAINST BAXTER WITH RESPECT TO DISPOSABLE PRODUCT AND ITS USE SHALL BE THE REPLACEMENT OR REPAIR OF THE DISPOSABLE PRODUCT AND NO OTHER REMEDY OR DAMAGES THAT ARE OR INCLUDE LOST REVENUES, LOST PROFITS, COST OF REPLACEMENT OR COMMERCIAL LOSS, OR ANY OTHER PROXIMATE, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES SHALL BE AVAILABLE TO PURCHASER. BAXTER SHALL HAVE NO FURTHER OBLIGATION OR LIABILITY

WITH RESPECT TO DISPOSABLE PRODUCT, OR ITS SALE, OPERATION AND USE, AND BAXTER NEITHER ASSUMES, NOR AUTHORIZES THE ASSUMPTION OF, ANY OBLIGATION OR LIABILITY IN CONNECTION WITH SUCH DISPOSABLE PRODUCT.

6.2. **EQUIPMENT WARRANTY**

Baxter will, at its option, replace or repair, at no charge to Purchaser, any Part of other Equipment which is found to be defective as a result of manufacturing defects only. In no event shall this warranty apply should Baxter determine in good faith that Parts or Equipment has been abused, misused, neglected, tampered with or damaged intentionally.

Optional feature components that are installed after a machine has been placed in service are subject to a separate warranty applicable to such components.

Certain components, such as fuses, bulbs, and filters, which are subject to normal wear, are not covered by this limited Equipment warranty. In addition, this Equipment warranty does not include replacement or repair of any Part that fails because of misuse, accident, neglect, or failure to use and maintain the unit in accordance with instructions provided in the applicable operator's manual, or because of alterations made by other than Baxter authorized service personnel. Repairs required as a result of abuse or misuse of the Equipment, as determined by Baxter in good faith, will be charged to the owner.

Parts installed that have been purchased from vendors other than Baxter shall void all applicable warranties.

Performance of scheduled preventive maintenance procedures, as described in the operator's manual, is the responsibility of Purchaser and is not covered by this Equipment warranty. Failure to perform preventative maintenance procedures will invalidate this Equipment warranty.

The applicable manufacturer under the manufacturer's warranty will cover Equipment and/or Parts not manufactured by Baxter, and Baxter provides no warranty for EQUIPMENT and/or Parts not manufactured by Baxter.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL BAXTER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM THE USE OF THE EQUIPMENT AND/OR PARTS. Some states may not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to Purchaser. This warranty gives Purchaser specific legal rights and Purchaser may also have other rights, which vary from state to state.

To request service under this Equipment warranty, please call the Technical Service Response Center at the telephone number below. The caller should be ready to provide the name, model number and serial number of the Equipment.

Baxter Healthcare Corporation
25212 West Illinois Route 120
Round Lake, Illinois 60073
1-800-525-2623

7. **Indemnification**

Purchaser hereby agrees to indemnify, defend, and hold harmless Baxter, its affiliates and subsidiaries, and the officers, directors, employees, agents and insurers of each of them ("Baxter Indemnified Parties"), from and against any and all third party claims, demands, actions, damages, expenses, costs, claims, judgments and liabilities (including, without limitation, interest, penalties and reasonable attorneys' fees and investigative costs, and including claims for personal injury, death or property damage) (together, "Claims") incurred by Baxter, arising from, in connection with or as a consequence of (i) any negligent, or wrongful act or omission by Purchaser; (ii) Purchaser's transfer, use or sale of Product, except to the extent that such suit or demand arises out of the failure of Product to meet Baxter's express warranty(ies); and/or (iii) Purchaser's improper possession, operation, maintenance, delivery, return, handling or storage of Product.