

## Verathon Standard Terms And Conditions Of Sale

**VERATHON INC.** ("Verathon") or its representatives offers and sells the products and services ("Products") to its customer, distributor, end-user, or other purchaser ("Buyer") only under the terms and conditions described below (collectively, "Terms"). These Terms shall prevail over any conditions issued by Buyer, unless and to the extent expressly stated otherwise in Verathon's quotation. Buyer agrees and accepts these Terms, together with Verathon's written quotation, order acknowledgment, and invoice, as the entire agreement between Verathon and Buyer ("Agreement"), superseding all other communications and documentation.

1. **PRICES; TAXES:** All orders, whether or not arising from Verathon's quotation is valid within the period stated therein and is subject to change or withdrawal at any time prior to written acceptance. Clerical or typographical errors on a quotation are subject to correction. The purchase price stated in the quotation exclude sales, use, excise, other tax, or government surcharges in effect or later levied. Buyer shall provide Verathon with the appropriate exemption certificate within a reasonable timeframe in advance of the date the Product is available for delivery, otherwise, Verathon shall invoice Buyer for those taxes and Buyer shall pay those taxes in accordance with the terms of the invoice. Buyer acknowledges its responsibility for reporting the dollar value of any discounts or price reductions in any costs claimed or charges made to Medicare, Medicaid, and other U.S. or foreign federal, state, or local program providing reimbursement to Buyer.
2. **ORDERS; ACCEPTANCE:** Orders must be submitted to Verathon in writing and will be considered accepted only by written acknowledgment or by shipment of the Products. Verathon may specify an alternate delivery schedule if orders exceed its inventory or ability to deliver. Buyer warrants that the person placing orders on its behalf is authorized to do so and accept these Terms.
3. **CHANGE; CANCELLATION:** Changes requested by Buyer after an order has been accepted is subject to written acceptance by Verathon, and the agreed price may be equitably adjusted to reflect such change. Buyer may cancel or suspend performance of an order for Verathon-standard Products for convenience. Any change or cancellation of an order may be subject to a 15% restocking fee.
4. **SHIPMENT, INSPECTION, AND RISK OF LOSS:** Verathon shall deliver the Products promptly within the dates indicated in the acknowledgement. It is understood that dates indicated for delivery or performance represent best current estimates only, and Verathon will have no liability for failure to perform within such dates. Unless otherwise agreed in Verathon's written quotation or order acknowledgement, all domestic shipments will be FCA origin and International orders will be EX Works (in each case per Incoterms 2010). Title and risk of loss will pass to Buyer when Products are delivered to carrier and, if not previously accepted, receipt of delivery by or on behalf of Buyer will constitute acceptance of these Terms. Buyer is responsible for all freight, shipping, handling, and insurance costs, and any such amounts prepaid by Verathon will be invoiced to and paid by Buyer. Buyer must inspect all Products upon arrival and provide written notice, within five (5) business days of any claim for shortage or nonconformance. If Buyer fails to give timely notice, all Products will be deemed to conform to the order and considered accepted. Use or resale of Products in any manner by Buyer or any of its employees, officers, directors, agents, representatives, contractors, licensees, or affiliates ("Representatives") after delivery without Verathon's express written consent will also constitute acceptance. Any claim for loss or damage in transit should be made directly to the delivering freight carrier or insurance provider and will not affect Buyer's responsibility to pay Verathon the full invoice price.
5. **PAYMENT:** For customers without approved payment terms, all orders require payment prior to shipment by COD, GHX E-Pay, ACH, wire transfer, credit card, letter of credit, or other payment method approved by Verathon, unless specified in Verathon's written quotation or acknowledgement.
  - 5.1 **Purchases by Credit Cards:** Buyer may prepay orders at point-of-sale (POS) via credit card (Visa, MasterCard, Discover and American Express). Except where Verathon is contractually obligated, credit card payments made after POS shall be subject to a 3% surcharge (where permitted by law).
  - 5.2 **Purchases with Approved Credit Terms:** Buyer may request credit terms by submitting a credit application prior to, or along with, Verathon's receipt of Buyer's initial Purchase Order. Acceptance of any credit terms are at Verathon's sole discretion. Where Verathon has extended credit to Buyer, terms of payment shall be net thirty (30) days from the date of invoice, without offset or deduction unless otherwise noted. Orders are subject to Verathon's ongoing credit review and approval. If Buyer is delinquent in any payment due, Verathon, in its discretion, may exercise any and all available remedies herein or at law, including set off, and may institute credit hold procedures on all open orders. Future orders will not be confirmed until Buyer's account is brought current, including any outstanding interest charges. Unpaid amounts will accrue interest at a rate equal to the lesser of 1.5% per month or the maximum rate permitted by applicable law, from the applicable due date until paid, plus Verathon's reasonable costs of collection. The foregoing terms will remain intact irrespective of any delay in delivery, installation, or acceptance. Verathon retains a purchase money security interest under applicable law in the Products and any proceeds arising therefrom, until payment in full is received. In the event of default, Verathon shall have the rights and remedies of a secured creditor, and all debt collection charges including legal fees shall be at the expense of Buyer.
  - 5.3 **Partial Shipments:** Verathon may make partial or early shipments when necessary and will provide Buyer with an invoice for each partial shipment. Deposits or stage payments, if any, are non-refundable; no discount for early payment applies unless authorized in writing by Verathon.
6. **THIRTY (30) DAY RETURN POLICY:** Buyer may return the Products for a full refund at any time during the first thirty (30) days following the date of invoice, subject to a 15% restocking fee. Returned Products must be unused, in the same condition as when shipped by Verathon, and in their original packaging. No Product may be returned if the seal or package integrity has been compromised or if Buyer has failed to handle or store the Product in accordance with all accompanying instructions and documentation. The Products will be returned freight prepaid to the address below and must reference a return authorization (RMA) number issued by Verathon. The RMA number is valid for 30 days from issuance and must appear on all shipping documents and related correspondence. After 30 days, all sales are final. Return to: **Customer Care Department, Verathon Inc., 20001 North Creek Parkway, Bothell, WA 98011 USA; Tel: 1.800.331.2313.** Verathon will inspect returned Products and issue any applicable credits based on the condition of the Products and the terms of this policy.
7. **LIMITED WARRANTY:** The Products are warranted in accordance with the applicable limited warranty outlined below ("Warranty"). The Warranty is effective only upon payment in full for the Products, extends only to Buyer, and may not be transferred to third parties by operation of law or otherwise. No employee, agent, dealer, reseller, or other person is authorized to modify, vary, or extend the Warranty or to assume for Verathon any other liability for its Products.
  - 7.1 **Verathon Products:** Verathon warrants that the Products are free from defects in materials and workmanship under normal use and service and conform with all applicable specifications. The warranty period is controlled by the documents supplied with each Product and begins on the date of shipment. This Warranty does not cover consumables.
  - 7.2 **Verathon Software:** Verathon warrants that the media on which all Verathon software is provided is free from defects in materials and workmanship and the Software, when properly installed, will conform to its specifications at time of sale, in each case under normal use in accordance with Product instructions, for one (1) year from the date of invoice. Verathon does not warrant that the operation of the Software will be

uninterrupted or error free. Buyer is responsible for providing and maintaining current back-ups and industry standard, updated, virus protection and firewall programs for its systems and data.

- 7.3 **Third Party Products:** Third party Products and Software are warranted only by the original manufacturer and only if and to the extent set forth in the original manufacturer's warranty. Verathon will not be liable for damage or loss of any nature with respect to such third party products or failure of such supplier to perform under its warranty.
- 7.4 **Limited Remedy:** Any breach of the foregoing warranties must be reported prior to expiration of the applicable warranty period, and Buyer's exclusive remedy and Verathon's entire liability for breach of the foregoing warranties will be repair or replacement, at Verathon's option, of the non-conforming Product or part or, if neither is in Verathon's opinion commercially feasible, refund of an amortized portion of the purchase price paid for the Product. Any replacement of Products or Software may be made by substitution of similar or upgraded Products having the same or substantially similar functionality. To obtain warranty service, Buyer must obtain from Verathon a return authorization number and send the Product with a description of the issue to Verathon at the following address: **Customer Care Department, Verathon Inc., 20001 North Creek Parkway, Bothell, WA 98011 USA; Tel: 1.800.331.2313.** For repairs covered by Warranty, the Product will be returned to Buyer at Verathon's expense. For Verathon Software, Verathon will provide software support, updates and upgrades for the duration of the Warranty period during normal working hours or at an additional charge, outside normal working hours. Verathon will not provide support or upgrades for Software not representing the then-current or most recent upgrade for the Product to be serviced. If Verathon determines that an exclusion from coverage applies (see Exclusions below), or for service after expiration of the Warranty period, Verathon will provide an estimate of repair costs and obtain authorization from Buyer before commencing the work. Following non-warranty repair, the Product will be returned to the Buyer, and Buyer will be billed for the repair and return transportation charges.
- 7.5 **Exclusions:** Verathon's Warranty does not cover problems caused by Buyer's acts (or failure to act), the acts of others, or events beyond Verathon's reasonable control, including (1) accident, theft, misuse, abuse, extraordinary wear and tear, improper storage, handling, or maintenance; (2) misapplication, improper use, or other failure to follow Verathon's Product instructions, storage specifications and safety precautions, or in a manner not authorized in the applicable Product documentation; (3) use of Products in conjunction with, physically installed on, or as a component of non-Verathon equipment, hardware, software, components, services, accessories, attachments, interfaces, or consumables, other than those supplied or specified by Verathon; (4) Products that have been repaired or maintained by anyone other than a Verathon authorized service provider; (5) computer viruses, electrical power failure or surges, and other changes to the operating system or environment that adversely affect the Product, including without limitation acts of God or other external causes; or (6) latent defects discovered after expiration of the applicable Warranty period. Modification, disassembly, rewiring, re-engineering, recalibration, and reprogramming of any Products other than as specifically authorized by Verathon in writing is prohibited and will void all warranties.

Under the Scan Point® Total Reliability Plan and the GlideScope® Premium Total Customer Care Warranty, a Buyer-owned BladderScan® Volume Instrument (6000 Series) or GlideScope® Instruments will be replaced if it is rendered inoperable because of an accidental drop or mishandling after payment by Buyer of the current deductible as determined by Verathon. Please refer to your Scan Point® license agreement for additional terms and conditions for the Scan Point® product. The deductible charge will be applied on each Warranty request and may be applied an unlimited number of times per instrument. Devices dropped multiple times are included. This Warranty does not apply if damage to the Product results from, service or modification by

anyone other than an authorized Verathon service center. Verathon will not replace an instrument that has been accidentally dropped or mishandled without payment of the deductible by Buyer.

- 7.6 **Certain Legal Limitations:** The foregoing warranties give customers specific legal rights which may vary based on local law. When, under applicable law, implied warranties are not allowed to be excluded in their entirety, such warranties will be limited to the duration of the applicable written warranty and, for European customers, any terms herein limiting Verathon's liability shall not apply insofar as they conflict with mandatory statutory provisions of the Product Liability Act.
8. **TO THE FULL EXTENT ALLOWED BY LAW, THE FOREGOING LIMITED WARRANTIES AND REMEDIES ARE EXCLUSIVE AND EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, REPRESENTATIONS, TERMS, OR CONDITIONS, WRITTEN OR ORAL, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES, TERMS OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, CORRESPONDENCE WITH DESCRIPTION, AND NON-INFRINGEMENT, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED.**
9. **PRODUCT SPECIFICATIONS AND VALIDATION:** All Products, when delivered by Verathon, will conform to published specifications. However, Buyer is responsible for (1) validation of each specific Product application; and (2) any use of Products as a component of, physically installed on, or in conjunction with any products not provided by Verathon for such purpose, including all necessary testing and qualification. Buyer will implement commercially reasonable protections to ensure that any failure or defect relating to Products will not result in any other or further liability, damage, or safety issues. Any description, sample, or model is for identification or illustrative purposes only and does not constitute a warranty of any sort. Verathon's responsibility shall not include any liability for or arising out of any non-Verathon products in which or with which Verathon's Products may be installed, combined, or used. Verathon may, at its sole discretion, discontinue or change the design or specifications of its Products at any time, and will use commercially reasonable efforts to notify Buyer of any decision to discontinue Products or any material change in specifications affecting form, fit or function.
10. **USE RESTRICTIONS & REQUIREMENTS:** Buyer shall comply with all applicable laws, rules, and regulations pertaining to the purchase, installation, operation, and use of the Products or its subsequent sale, shipment, transfer, or disposition, including any use or sale with or as a component of non-Verathon products. All international orders are contingent upon approval of export licenses required by the United States Government. Buyer may not, or permit any third party to (1) modify, alter, disassemble, or make any changes to the Products or items provided by Verathon, including but not limited to Software, firmware, packaging, labels, and instructions for use, without Verathon's prior written consent; (2) import, export, sell, transfer, service, store, handle, distribute, or use any Product, or item supplied hereunder in any manner prohibited by applicable laws and regulations, including all applicable export control laws, restrictions and regulations, or contrary to any written warning or instruction given by Verathon herein, in the Product documentation, on Verathon's website, or otherwise; or (3) make any representations or warranties on behalf of Verathon as to the quality, merchantability, fitness for a particular use, or other features of the Products. Buyer is responsible for calibration of all radiation producing equipment by a qualified radiological physicist prior to use of any Verathon Product for patient treatment and retains full responsibility for the accurate calibration and safe transmission of radiation to any third party, with or without Verathon's Product in place. Unless prohibited by applicable law, Buyer agrees to hold Verathon harmless from all liabilities, claims, losses, damages, and expenses (including without limitation reasonable attorneys' fees and expenses) arising out of Buyer's breach of these Terms.
11. **PROPRIETARY INFORMATION:** Buyer acknowledges that the Products are based upon and embody various confidential and proprietary technology, processes, methods, information, and trade secrets of Verathon and its suppliers and licensors. Verathon and its

suppliers or licensors (as applicable) shall exclusively own all inventions, technology, know-how, trade secrets, and other proprietary information of any kind used or embodied in the products, documentation, drawings, designs, specifications, Software, and other items supplied by Verathon, all intellectual property rights with respect thereto, and all reproductions or derivatives thereof in any form ("Proprietary Information"). Buyer shall neither acquire nor claim any right, title, or interest in, and shall exercise reasonable care to maintain the confidentiality of, Verathon's Proprietary Information and shall use the same solely as required for its authorized use of the Products. Buyer may not directly or indirectly (1) copy, adapt, develop, disassemble, reverse engineer, recast, compile, decompile, translate, or create derivative works from any products, instructions, manuals, schematics, or other items provided by or on behalf of Verathon, or permit any third party to do so, (2) remove, alter, or obscure any copyright, trademark, patent, logo, government restricted rights, or other notices or legends attached to the Products, or (3) disclose or use Proprietary Information for commercial purposes or in a manner detrimental to Verathon. Disclosures of Proprietary Information may be permitted only to Buyer's Representatives having a specific need to know and a written obligation to protect such information no less restrictive than the restrictions in this Section, and Buyer will be responsible for any breach by its Representatives. Buyer agrees that any breach of this Section may cause Verathon irreparable harm for which recovery of damages may be inadequate, and that seeking immediate injunctive or other equitable relief may be sought to prevent any violation, threatened or actual, in addition to other remedies and without proof of actual damage.

12. **SOFTWARE & FIRMWARE:** If software is included in the scope of providing services in support of Products, Buyer shall be granted a non-exclusive and non-transferable right to use such software for the purpose of installing or upgrading the internal system code, firmware, or operating system software ("Software"). If Software is included in a Product, the rights of Buyer shall be limited exclusively to use on the Product. If separate software is included for installation or use on the Product, Buyer shall enter into an end user license agreement with Verathon. Title to the software remains with Verathon or its suppliers, and rights not expressly granted to Buyer are expressly reserved. Buyer may not copy or duplicate the Software, in whole or in part (other than one back-up copy, bearing all original copyright notices, for archival purposes), or transfer, sublicense, distribute, sell, lease, rent, or provide or disclose any such Software, or any portion thereof, to any third party, including without limitation any use over the internet or through an application service provider model, except that Buyer may sublicense the software along with the transfer of the product to another party. Buyer may not circumvent any usage or other restrictions imposed by any license manager, or modify, adapt, copy, recast, alter, compile, decompile, translate, or create any derivative work based on the Software, or use the same for application development purposes. The license granted to Buyer will terminate if Buyer discloses or transfers the Software to others without Verathon's consent or discontinues use of the Product for which such Software is provided.
13. **LIMITATION OF LIABILITY:** No claims, regardless of form, arising out of the Products or transactions to which these Terms apply may be brought by Buyer more than 2 years after the cause of action arises or performance is completed or terminated, whichever is earlier. With respect to bodily injury liability to third parties, each party will be responsible in such proportion as reflects its relative fault for damages arising from or related to the use or operation of the Products; provided, however, that Verathon will have no responsibility whatsoever and, unless prohibited by applicable law, Buyer will defend and hold harmless Verathon from and against, any losses, liabilities, damages or injuries arising out of (1) the handling, storage, installation, operation, service, or use of any Products in violation of these Terms, (2) any non-Verathon or custom design, manufacture, or installation of products pursuant to Buyer's requirements, specifications or designs. This Section states each party's entire liability for bodily injury. **IN NO EVENT WILL VERATHON BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR OTHER INDIRECT DAMAGES OR LOSSES, INCLUDING WITHOUT LIMITATION LOSS OF**

**DATA, HOWEVER CAUSED, WHETHER OR NOT FORESEEABLE, AND EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND VERATHON'S AGGREGATE LIABILITY IN DAMAGES OR OTHERWISE FOR ANY AND ALL CAUSES SHALL BE LIMITED TO THE PURCHASE PRICE PAID OR PAYABLE FOR THE APPLICABLE PURCHASE ORDER. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. FOR EUROPEAN CUSTOMERS, THE FOREGOING SHALL BE MODIFIED SOLELY AS REQUIRED UNDER THE PRODUCT LIABILITY ACT, IT BEING AGREED THAT CLAIMS OVER AND ABOVE THOSE UNDER THE PRODUCT LIABILITY ACT WILL NOT BE MADE BY BUYER AGAINST VERATHON, AS MANUFACTURER, UNDER ANY THEORY OF LIABILITY, INCLUDING BY MEANS OF INDEMNIFICATION OBLIGATIONS.**

The Parties acknowledges that these limitations of liability are a material part of the bargain between the parties and are reflected in product pricing, which would be higher without these limitations.

14. **MANUALS:** User and maintenance manuals will be provided with each Product. Service manuals or schematics are not generally available and will not be provided to Buyer.
15. **EXCUSABLE DELAY/FORCE MAJEURE:** Verathon will not be liable nor in breach or default of its obligations to the extent its performance of such obligations is delayed, hindered, or prevented, in whole or in part, directly or indirectly, due to causes beyond its reasonable control, including without limitation fires, floods, accidents, terrorism, war, plagues, epidemics, pandemics, quarantines, or other public health risks, governmental action or embargoes, strikes, or shortages of materials or labor, or other causes beyond its control. Upon occurrence of a force majeure, Verathon's performance or delivery date shall extend for a period equal to the duration of the force majeure event, plus such additional time as may be reasonably necessary to overcome the effect of the delay.
16. **ASSIGNMENT:** This Agreement is not assignable without Verathon's prior written consent. This Agreement is binding upon and enforceable against any successor or permitted assignee.
17. **GOVERNING LAW:** Except where expressly prohibited by statutory law, all transactions, and any disputes arising out of the Products supplied hereunder will be governed by the laws of the state of Washington and the United States of America, excluding any conflict of law provisions thereof. The United Nations Convention on Contracts for The International Sale of Goods, the Uniform Law on the Formation of Contracts for the International Sale of Goods, and any applicable international discovery and service of process conventions will be inapplicable.
18. **WAIVER, SEVERABILITY:** The failure of a Party to enforce any provision of this Agreement will not constitute a waiver of that provision. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, then that provision will be amended to achieve as nearly as possible the same economic and practical effect as the original provision and the remaining provisions of this Agreement will not be affected.
19. **CREDIT REPORT AUTHORIZATION:** Buyer consents to Verathon's use of a consumer credit report to evaluate the credit worthiness of Buyer for the extension of credit as contemplated by this Agreement.
20. **HIPAA AND OTHER FEDERAL AND STATE PRIVACY AND SECURITY:** Verathon does not require or otherwise process patient protected health information ("PHI"), as defined by the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health, in the course of providing the Warranty services to Buyer hereunder. Buyer hereby represents and warrants that any and all PHI that may be stored on the Products are purged and permanently deleted prior to returning such Products to Verathon for Warranty or any other service. In the event Buyer fails to remove electronic PHI, Verathon will delete such information from the Products without liability. In the event purchases made under this Agreement become subject to HIPAA, Verathon will execute a business associate agreement prior to obtaining access to Buyer's PHI.