

## Mammotome Rental Terms and Conditions (US Customers)

These Mammotome Rental Terms and Conditions ("Terms and Conditions") apply to the rental of the Equipment from Devicor Medical Products, Inc. ("Mammotome") to Customer as stated in the applicable equipment rental letter agreement ("Equipment Rental Letter"). These Terms and Conditions and the Equipment Rental Letter are collectively referred to herein as the "Agreement". Mammotome rejects any other terms and conditions appearing on, referenced in, or attached to Customer issued documents. Customer's signature on the Equipment Rental Letter constitutes Customer's acceptance of these Terms and Conditions:

1. **Term.** The term shall begin on the Effective Date of the Agreement and shall automatically renew on a monthly basis until either party provides written notice of termination or until the Equipment has been on site for twelve (12) months. Upon expiration or termination, Customer agrees to immediately return the Equipment to Mammotome.
2. **Termination.** Either party may terminate the Agreement for cause in the event the other party breaches a material term of these Terms and Conditions and fails to cure such breach within thirty (30) days of the date such party first received written notice of the breach. In the event of breach by Customer, Mammotome may, without limiting its remedies under existing law, pursue any one or more of the following remedies: (i) suspend or cancel its performance under the Agreement, (ii) take possession of any or all Equipment covered under the Agreement by entering upon Customer's premises; and (iii) declare all costs, charges and expenses, including reasonable attorneys' fees incurred in retaking possession of the Equipment or in the collection of any sums which Customer may owe Mammotome immediately due and owing. The foregoing remedies are cumulative and may be exercised by Mammotome, in whole or in part, at Mammotome's sole discretion.

Either party may terminate the Agreement without cause by providing the other party with five (5) business days' prior written notice. If Customer terminates without cause, Customer agrees to immediately return the Equipment and any amount due remaining for the current month of rental shall become immediately due and owing.

3. **Payment.** As of the Effective Date of the Agreement, Mammotome will invoice Customer on a monthly basis. Payment terms are net thirty (30) days from the date of the invoice. An interest charge of 1% per month (or the maximum rate permitted by law if less than 1% per month) will apply to payments received more than thirty (30) days after the invoice date. Customer agrees to provide Mammotome with a purchase order for the total monthly rental fee, upon the Effective Date of this Agreement. In the event Customer does not provide Mammotome a purchase order by the Effective Date of this Agreement, Mammotome reserves the right to invoice Customer in accordance with these Terms and Conditions using such format as "Customer SAP #\_RTL\_Effective Date".
4. **Taxes.** In addition to the prices set forth in the Agreement, Customer shall pay any applicable sales tax, duty, or other fee imposed on the transactions between the parties by any federal, state, or local governmental authority. If Customer claims any tax exemption, Customer must furnish a valid tax exemption certificate to Mammotome prior to shipment.
5. **Credit Application.** Upon request by Mammotome, Customer agrees to comply with all credit application requests of Mammotome and Mammotome shall not be obligated to accept the Agreement unless and until it has approved of credit respecting Customer, in Mammotome's sole discretion.
6. **Product Shipment.** Equipment will be shipped F.O.B. Origin. Mammotome is responsible for payment of standard shipping charges. Mammotome is not liable for any delay in any delivery, including, but not limited to delays due to product shortages, force majeure events, regulatory or carrier issues, or any circumstance beyond its reasonable control.
7. **Equipment Ownership/Return.** The Equipment covered under the Agreement may be new or refurbished and shall at all times remain and be the sole and exclusive property of Mammotome. Customer shall keep the Equipment free and clear of any encumbrances or liens or restrictions of any kind to Mammotome's ownership. Customer shall not move the Equipment from the shipping address noted above or to another location without the prior written consent of Mammotome. Customer shall immediately advise Mammotome in writing of any accident, material damage to or defect in the Equipment.

Within five (5) days of the expiration or termination of the Agreement, Customer shall return the Equipment to Mammotome complete and in good order and working condition, reasonable wear and tear excepted. If the Equipment is not complete, or in good order and working condition upon return, or if the Equipment is not returned within five (5) days from the expiration or termination of this Agreement, Mammotome, at its sole discretion, reserves the right to invoice Customer for the full retail cost of Equipment, or the cost to restore the Equipment to good order and condition. Customer shall through the term of the Agreement or as long as Customer maintains possession of the Equipment, maintain insurance coverage sufficient to cover any loss or damage to the Equipment in amounts no less than the current list price.

8. **Service and Coverage.** Mammotome will, and at no additional charge to Customer, provide all parts and labor to repair malfunctioning Equipment or provide Customer with replacement Equipment. Malfunctioning Equipment must be returned by Customer to Mammotome within one (1) week of receiving the replacement Equipment to avoid additional charges. If Mammotome determines the malfunctioning Equipment was caused by Customer's misuse or abuse, damage from fire, water or electrical surge, or failure to follow Mammotome's operating instructions, Customer shall be responsible for such repair or replacement cost for the Equipment at the then current list price.

For Technical Service support and shipping instructions, please call 1-877-926-2666, Option 3 between the hours of 7:00 AM – 6:00 PM EST.

9. **Intended Use.** The Equipment covered under the Agreement is only intended for the uses listed in the applicable manual or instructions for use. Customer assumes all risk associated with non-listed uses of Equipment and hereby indemnifies and holds Mammotome harmless from any claims associated with such non-listed uses.
10. **Force Majeure.** Neither party will be liable to perform or for any delay in performance, due to strikes, fire, explosion, flood, riot, injunction, interruption of transportation, unavoidable accidents, acts of government or public enemy, terrorism, inability to obtain supplies at reasonable prices, or any other causes beyond its control.
11. **LIMITATION OF LIABILITY/INDEMNIFICATION.** IT IS UNDERSTOOD AND AGREED THAT MAMMOTOME'S LIABILITY HEREUNDER OR IN CONNECTION WITH THE MANUFACTURE, RENTAL OR USE OF THE EQUIPMENT DESCRIBED HEREIN, HOWSOEVER ARISING, SHALL NOT EXCEED THE AMOUNT OF THE MONTHLY RENTAL FEE PAID BY CUSTOMER FOR THE LAST TWELVE (12) MONTHS FOR SUCH EQUIPMENT, HOWEVER, LIABILITY FOR INTENTIONAL MISBEHAVIOR WILL NOT BE LIMITED. BOTH PARTIES SHALL INDEMNIFY, DEFEND, AND HOLD THE OTHER PARTY, ITS EMPLOYEES, DIRECTORS, OFFICERS AND AGENTS (COLLECTIVELY, THE "INDEMNITEES") HARMLESS FROM AND AGAINST ANY AND ALL THIRD PARTY CLAIMS AND ASSOCIATED LIABILITIES, OBLIGATIONS, DAMAGES, JUDGMENTS, PENALTIES, CAUSES OF ACTION, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES) ("CLAIMS") IMPOSED UPON OR INCURRED BY OR ASSERTED AGAINST ANY OF THE INDEMNITEES FOR BODILY INJURIES (INCLUDING DEATH) OR DAMAGES TO OR LOSS OF REAL OR TANGIBLE PERSONAL PROPERTY, TO THE EXTENT THAT ANY SUCH CLAIM ARISES IN WHOLE OR IN PART FROM ANY ONE OR MORE OF THE FOLLOWING: (A) THE FAULT, NEGLIGENCE, OR WILLFUL MISCONDUCT OR OMISSIONS, OF THE OTHER PARTY, ITS EMPLOYEES OR AGENTS, OR OTHERS ACTING ON ITS BEHALF, INCLUDING THE BREACH BY ANY OF THEM OF ANY PROVISION OF THE AGREEMENT; (B) ANY ALTERATION OF THE EQUIPMENT NOT AUTHORIZED BY MAMMOTOME IN WRITING IN ADVANCE, OR BY A PERSON NOT AUTHORIZED BY MAMMOTOME; (C) COMBINING MAMMOTOME'S EQUIPMENT WITH ANY EQUIPMENT OR PRODUCT FURNISHED BY OTHERS WHERE SUCH COMBINATION CAUSES FAILURE OF OR DEGRADATION TO PERFORMANCE OF MAMMOTOME'S EQUIPMENT; (D) COMBINING INCOMPATIBLE PRODUCTS OF MAMMOTOME, AND (E) FAILURE TO COMPLY WITH ANY APPLICABLE WRITTEN INSTRUCTIONS OF MAMMOTOME.
12. **Governmental Authorizations.** Customer is responsible for compliance and costs associated with all required licenses, permits, or other governmental authorizations, including but not limited to, any license or certification needed for Customer to use the Product/Equipment, and any export or import license, exchange permit, or the like ("Licenses"), even if applied for by Mammotome on Customer's behalf. If any authorization is delayed, denied, revoked, restricted or not renewed, Mammotome shall not be liable, and Customer is not relieved of its obligations. Customer agrees that it will handle all Equipment and technical data related to the Licenses so that it conforms to all applicable U.S. laws and regulations, including U.S. export licensing laws and the U.S. Foreign Corrupt Practices Act. Customer shall not trans-ship, divert, re-export or otherwise dispose of any U.S. origin goods or technology obtained from Mammotome except as U.S. laws and regulations expressly permit.
13. **Compliance with Stark Law and Anti-Kickback Statute.** The parties acknowledge their intention that the Agreement fully complies with 42 U.S.C. §1320a-7b(b) (the "Anti-Kickback Statute") and with 42 U.S.C. § 1395nn (the "Stark Law"). No part of the Agreement is intended, and no part of the Agreement shall be construed, to induce, encourage, solicit or reimburse the referral of any patients or business, including any patients or business funded in whole or in part by a federal healthcare program. All referrals shall be in the unfettered professional discretion of the parties. The parties acknowledge that there is no requirement under the Agreement or any other agreement between parties that either party refer any patients to the other or to any of their respective affiliates. No payment made or other remuneration provided under the Agreement shall be in return for or intended to induce the referral of patients or business, including those paid in whole or in part by state or federal government programs. Nevertheless, the parties agree that if either party determines at any time, or for any reason, that any aspect of the terms or operation of the Agreement may be deemed to constitute a violation of the Stark Law or the Anti-Kickback Statute, or any other federal, state, or local statute, rule, or regulation, then that party may give written notice to the other party, and both parties shall use their best efforts to restructure their respective rights and obligations in a manner allowed by law and to amend the Agreement accordingly. Additionally, (a) the parties each acknowledge and agree that the supply of Equipment to Customer by Mammotome does not exceed what is reasonable and necessary for Customer's legitimate business purpose and the aggregate Equipment provided does not exceed that which is reasonably necessary to accomplish the commercially reasonable business purpose of the Agreement; (b) the Equipment are used exclusively by Customer and are not shared with or used by Mammotome or any person or entity related to Mammotome; and (c) the parties each represent and warrant that the Agreement is consistent with fair market value in arms-length transactions, not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties.
14. **HIPAA Compliance.** Both parties agree that Mammotome's provision of Equipment is not anticipated to involve any access by Mammotome to protected health information as that term is defined under the Health Insurance Portability and Accountability Act of 1996, the HITECH Act, and regulations promulgated thereunder (collectively, "HIPAA").
15. **Confidential Information.** Both parties agree to hold in strict confidence the terms of this Agreement and all information provided to the other in connection with the performance of their respective obligations under this Agreement, including without limitation, financial information and information relating to the Customer and pricing, except to the extent that disclosure is required by applicable law.
16. **Assignment.** Neither party may assign this Agreement or any right or obligation arising out of the Agreement without the express written consent of the other party, and such consent shall not be unreasonably withheld.

17. **Cost Reporting.** Customer represents and warrants that it shall comply with (a) the applicable requirements of the Discount Statutory Exception, 42 U.S.C 1320a-7b(b)(3)(A), and the Discount Safe Harbor, 42 C.F.R. § 1001.952(h), with respect to any discounts Customer may receive under the Agreement and (b) the Warranties Safe Harbor, 42 C.F.R. § 1001.952(g), with respect to any price reductions of an item (including one at no charge) which were obtained as part of a warranty under the Agreement. Customer agrees to file all appropriate reports and to properly disclose and reflect all discounts in any report filed in connection with state or federal cost reimbursement programs.
18. **Medicare Access to Books and Records.** To the extent applicable, the parties intend to comply with Section 1861(v)(1)(I) of the Social Security Act, as amended, and written regulations promulgated thereunder. Accordingly, the parties agree to comply with the following statutory requirements governing the maintenance of documentation to verify the cost of any product or service rendered pursuant to the Agreement: (i) until the expiration of four (4) years after the furnishing of any service pursuant to the Agreement, each party will make available, upon written request of the Secretary of Health and Human Services, or upon request of the Comptroller General of the United States, or any of their duly authorized representatives, copies of the Agreement and any books, documents, records, or other data of the parties that are necessary to certify the nature and extent of cost incurred for such Equipment; and (ii) if either party carries out any of its duties under the Agreement through a sub-contract with a related organization involving a value or cost of \$10,000 or more over a twelve (12) month period, such party will cause such sub-contract to contain a clause to the effect that, until the expiration of four (4) years after the furnishing of any Equipment pursuant to said sub-contract, the related organization will make available, upon written request of the Secretary of Health and Human Services, or upon request of the Comptroller General of the United States, or any of their duly authorized representatives, copies of said sub-contract and any books, documents, records, or other data of said related organization that are necessary to certify the nature and extent of such costs. This provision will survive termination or expiration of the Agreement.
19. **Condition of Participation.** During the Agreement, each party shall notify the other party of any exclusion of such party, any of its employees, contractors or agents providing services hereunder, or its affiliates from participation in any federal health care program, as defined under 42 U.S.C. §1320a-7b(f), for the provision of items or services for which payment may be made under such federal health care programs ("Exclusion"), within two (2) business days of knowledge of any such Exclusion or any facts that provide a reasonable basis to believe the Exclusion has occurred or is reasonable likely to occur. The party receiving such notice shall have the right to immediately terminate the Agreement upon receipt of such notice.
20. **Governing Law.** Upon execution, the Agreement be governed and viewed under the laws of the state of Ohio without reference to its conflict of laws provisions.
21. **Notices.** Any notification required under the Agreement shall be deemed to have been given either one (1) day after being given to an express overnight carrier with a reliable system for tracking delivery or three (3) business days after having been mailed postage prepaid by United States registered or certified mail. Any required notices to Customer will be delivered to the address set forth above, and to Mammotome at the addresses listed below. Either party may change its mailing address by notice as provided by this section.

Devicor Medical Products, Inc.  
Attn: Service Department  
300 E-Business Way, Fifth Floor  
Cincinnati, Ohio 45241

With a copy to: Attn: Legal Department

22. **Miscellaneous.** Any right or obligation of the parties in this Agreement which, by its express terms or nature and context is intended to survive termination or expiration of these Agreement, will survive any such termination or expiration. Except as otherwise provided in the Agreement, this Agreement may only be amended by a written agreement signed by both parties. No waiver will be implied from conduct or failure to enforce rights. No provision of these Agreement shall be deemed waived unless such waiver is in writing and signed by an authorized representative of the party against whom it is sought to be enforced. Waiver by either party to any default by the other party of any provision of these Agreement shall not be deemed a waiver by the waiving party of any subsequent or other default. Nothing in these Agreement is intended to, or shall, confer upon any third party any rights, benefits or remedies. If any provision of these Agreement is held to be invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected thereby, and the parties shall use reasonable efforts to substitute a valid provision that best effectuates the intent of the invalid or unenforceable provision. Reference to the singular includes a reference to the plural and vice versa. The Customer's representative executing the Agreement on behalf of such entity represents that he or she is duly authorized to execute and deliver the Agreement on the entity's behalf including the entity's Board of Directors or Executive Director. This Agreement shall not be effective or binding unless it is in writing and approved by the appropriate authorized designee.