

# Power<sup>2</sup> Promotion by Fluke Biomedical

## End User Customers in US

### TERMS AND CONDITIONS

#### 1. **Promotion Description**

Eligible customers who participate in this Promotional Pricing (the “Promotion”) during the Promotion Period (as defined in Section 3) and meet all the requirements as set forth in these terms and conditions of the Promotion are eligible to receive a price reduction (the “Discounted Price”) as further described in Schedule A below.

#### 2. **Eligibility**

To be eligible for the Promotion, a customer must be a hospital or independent service organization located inside the United States or otherwise subject to U.S. jurisdiction (“Hospital Customer”). For purposes of this Promotion, a Hospital Customer is defined as a customer which meets the statutory Medicare definition of “hospital” (i.e., the hospital is primarily engaged in providing, by or under the supervision of physicians, diagnostic, therapeutic, or rehabilitation services to inpatients).

Only customers that are end-users and use the Qualifying Fluke Health Solutions Products for their own purposes are eligible to participate in the Promotion. Distributors, resellers, sales representatives, and similar parties are expressly excluded from participation in the Promotion.

Employees, directors and officers of the Sponsor, its parent companies, affiliated companies, subsidiaries, distributors, representatives, and those persons’ immediate families (parents, siblings, children and spouse) and persons living in the same household (whether related or not) are not eligible to participate in the Promotion.

Further, no employees, officers, directors, representatives or agents of government entities, including government owned or controlled companies are eligible to participate in the Promotion.

#### 3. **Promotion Period**

In order to qualify for the Promotion, an eligible customer must purchase a Qualifying Fluke Health Solutions Product during the Promotion Period, as defined in Schedule A. All eligible customers must follow the process stated below during the Promotion Period.

To receive the Discounted Price, purchase a Qualifying Fluke Health Solutions Product during the Promotion Period from an authorized Fluke Health Solutions distributor or representative. Your purchase price will be the Discounted Price. The Promotion is not a rebate, and you will not be required to fill out a rebate form and wait for a redemption check.

This pricing is not valid if purchased from anyone other than an authorized Fluke distributor or representative. See the list of authorized distributors at [[http://www.flukebiomedical.com/Health\\_Solutions/usen/wheretobuy](http://www.flukebiomedical.com/Health_Solutions/usen/wheretobuy)].

#### 4. **Restrictions and Limitations of the Promotion**

The Promotion is subject to all applicable national, federal, state, and local laws and regulations and is void where prohibited by law. The Promotion is also void in the United States territories and possessions and all other countries].

Products that are not eligible include, without limitation: Any products not listed in Schedule A of these Promotion terms and conditions. Any products purchased by the customer in addition to the Qualifying Fluke Health Solutions Products will be at the full sale price.

The Promotion cannot be combined with any other discounts, coupons, credits, rebates or other special offers from the Sponsor applicable to the purchase of the Qualifying Fluke Health Solutions Product.

No cash substitutes are allowed for any reason.

## 5. **Disclaimer**

Sponsor and each of its parent companies, subsidiaries, and affiliates, and each of their respective directors, officers, equity owners, professional advisors, distributors, representatives, employees and agents (collectively, the “Released Parties”) will not be responsible or have any liability for: (a) any late, lost, misrouted, garbled or distorted or damaged communications, transmissions or requests; (b) telephone, electronic, hardware, software, network, Internet, or other computer or communications related malfunctions or failures; (c) any Promotion disruptions, injuries, losses or damages caused by events beyond the control of Sponsor or by non-authorized human or other intervention; or (d) any printing or typographical errors in any materials associated with the Promotion.

Sponsor and the Released Parties are not responsible for: (a) authorized distributors that do not participate in the Promotion; (b) participating authorized distributors that sell products at the price they determine; or (c) participating authorized distributors mishandling transactions and/or shipments of product.

All discounts provided under the Promotion are intended to comply with the federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b). To the extent required by 42 C.F.R. Section 1001.952(h) (the Anti-Kickback Statute discount safe harbor regulations) or other applicable laws and regulations, the customer must fully and accurately reflect in cost reports or other submissions to federal healthcare programs all discounts provided under the Promotion, and upon request by the Secretary of the U.S. Department of Health and Human Services or a state agency, must make available information provided to the customer by Sponsor concerning the discounts.

## 6. **Limitation of Liability**

Except where otherwise prohibited by law, by participating in the Promotion, you release and agree to indemnify and hold harmless each Released Party from any liability, obligation, injury, claim, suit, action, cost, expense, loss or damage of any kind, including any tax liability or loss of opportunity, whether direct, indirect, special, incidental or consequential, that may be imposed on, asserted against or incurred by such Released Party that arise out of or relate in any way to this Promotion, including, but not limited to, where arising out of or relating to the following: (a) any technical difficulties or equipment malfunction (whether or not under Sponsor’s control); (b) any theft, unauthorized access or third party interference; (c) any redemption request that is late, lost, altered, damaged or misdirected (whether or not after their receipt by Sponsor, and whether or not in Sponsor’s control); (d) any damages due to the operation of the postal service; (e) any variation in promotion value to that stated in these terms and conditions; (f) any tax liability incurred by participant; or (g) use or misuse of the products offered under the Promotion.

## 7. **Miscellaneous**

The Promotion and these terms and conditions will be governed, construed and interpreted under the laws of the Sponsor entity authorized to transact in the country or territory where the customer is located without applying any conflicts or choice of law provisions under such law that might refer the construction or

interpretation of any term hereof to the laws of any other territory or jurisdiction and any action brought regarding the Promotion and these terms and conditions may only be brought in the national, state or federal courts located in such country or territory, and each party to such action expressly consents to jurisdiction of those courts. If any provision of these terms and conditions is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and, provided that the fundamental terms and conditions of these terms and conditions remain legal and enforceable, the remainder of these terms and conditions shall remain operative and binding.

The customer is bound by these terms and conditions and by the decisions of Sponsor, which are final and binding in all respects. To the extent permitted by law, Sponsor reserves the right to change these terms and conditions at any time, including but not limited to adding, removing and modifying Products or any services on the product list, in its sole and absolute discretion, and to suspend or cancel the Promotion or any customer's participation in the Promotion should technical failures, computer viruses, fraud, human error, unauthorized human intervention or other causes beyond Sponsor's control affect the administration, security, proper functioning, integrity or conduct of the Promotion, Sponsor otherwise becomes (as determined in Sponsor's sole and absolute discretion) incapable of conducting the Promotion as planned, or for any other reason determined by Sponsor to be appropriate in its sole and absolute discretion.

These terms and conditions constitute the entire agreement governing the Promotion and binding the customer, and no other agreement, verbal or otherwise, shall be binding regarding the Promotion unless it is in writing and signed by Sponsor. In case of any conflict or inconsistency between any other documents relating to the Promotion and these terms and conditions, these terms and conditions shall control. To the maximum extent provided by law, no waiver of any provision of these terms and conditions will be implied from any course of dealings between the customer and Sponsor or from any failure by the customer or Sponsor to assert its rights hereunder on any occasion or a series of occasions. Eligibility to participate in the Promotion is non-transferable and non-assignable.

Any customer who violates these terms and conditions, violates any law, rule or regulation in connection with participation in the Promotion, tampers with the operation of the Promotion, or engages in any conduct that is unsportsmanlike, disruptive, or detrimental or unfair to Sponsor, the Promotion or any other participant (in each case as determined in Sponsor's sole and absolute discretion) are subject to disqualification from participation in the Promotion and all other rights and remedies available under the law.

Sponsor's use of the customer's personal information provided to Sponsor is subject to Sponsor's Privacy Policy (available at <http://en-us.fluke.com/site/privacy>). If you have any questions about these Terms & Conditions or the Promotion, please email them to [sales@flukebiomedical.com](mailto:sales@flukebiomedical.com) or send written questions to the address: Attn: Fluke Biomedical: Fluke Electronics Corporation, PO Box 9090 Everett WA 98203]

8. **Sponsor's Address Information**

Fluke Electronics Corporation or Fluke Corporation  
PO Box 9090  
Everett WA 98203

9. **Copyright Notice**

The Promotion and all accompanying materials, including these Terms & Conditions, are copyright © 2020 by Fluke Corporation. All rights reserved.

## Schedule A

Under the Promotion, eligible customers of Fluke Health Solutions, a division of Fluke Electronics Corporation in the United States and Fluke Corporation or its other affiliates outside of the United States (collectively, “Sponsor”), who purchase a Qualifying Fluke Health Solutions Product (as further described below) from an authorized Fluke Health Solutions distributor or representative will receive the Discounted Price for those products (as further described below). The Promotion Period which starts at 12:00 AM [PST] on May 11, 2021 and ends at 11:59 PM [PST] on August 31, 2021 (the “Promotion Period”). [Pacific Standard Time (PST)] shall control for all purposes of the Promotion.

For purposes of the Promotion, the term “Qualifying Fluke Health Solutions Product” and the “Discounted Price” means only the Fluke Health Solutions brand items at the bundling pricing listed in the chart below, one product must be selected from Table A and one product must be selected from Table B.:

Table A

Item #	Model	Discounted Price	% Discount of U.S. List Price
4132173	ESA612-US		0
4132260	ESA612-10-NA220		0
4163288	TA-ESA612-US		0
4163373	TA-ESA612-10NA220V		0
5031918	ESA614		0
4132046	ESA615-US		0
4132164	ESA615-10-NA220		0
4162180	TA-ESA615-US		0
4162341	TA-ESA615-10NA220		0

Table B

Item #	Model	Discounted Price	% Discount of U.S. List Price
4722620	INCU II-BT		15%
4722635	INCU II-NO BT		15%
4349304	IDA-5/1 US120V		15%
4349319	IDA-5/2 US120V		15%
4349328	IDA-5/4 US120V		15%
4359846	TA-IDA-5/1 US120V		15%
4359978	TA-IDA-5/2 US120V		15%
4360071	TA-IDA-5/4 US120V		15%
4307790	PROSIM 3		15%
3985156	PROSIM 4		15%
3979409	PROSIM 8		15%
4502257	QA-ES MK III		15%
4680301	TA-QA-ES MK III		15%