



## STANDARD TERMS AND CONDITIONS

Absent a definitive binding and valid agreement for the use, supply, distribution, import, or commercialization of products by, for, from, or on behalf of TissueTech Inc. or its affiliates (including without limitation BioTissue Inc.), the following Standard Terms and Conditions (“Agreement”) shall apply to the purchase and supply of Products. “Supplier” shall be TissueTech Inc. and/or its affiliates (howsoever stated on the Purchase Order), and “Purchaser” shall be any third-party purchaser of Products. “Products” shall be any products made, sold, imported, or commercialized by TissueTech Inc. and/or its affiliates.

### 1. ORDERING

- 1.1. Use of Products. Products sold by Supplier to Purchaser shall be for end-use by Purchaser and Purchaser’s respective patients, and Products shall not be re-sold or otherwise distributed to third parties.
- 1.2. Ordering Information. Purchaser shall order Products by submitting purchase orders to Supplier in writing, in a form reasonably acceptable to Supplier (each, a “Purchase Order”). Each Purchase Order shall include ordering information such as Product name or unique identifier, quantity, unit price, requested delivery dates, and delivery location. Purchase Orders must be sent to Supplier’s customer service department (at [surgical@biotissue.com](mailto:surgical@biotissue.com) and/or [ocular@biotissue.com](mailto:ocular@biotissue.com) as the case may be), and not to a sales representative.
- 1.3. Acceptance. Purchase Orders shall only become valid and binding once accepted by Supplier in writing.
- 1.4. Changes to Purchase Orders. Any change to a valid and binding Purchase Order must be made in writing and mutually agreed to by the Parties.
- 1.5. Delivery, Title, Risk of Loss. The purchase price for Products is not inclusive of costs related to the delivery of the Products to the delivery site(s) including, without limitation, all packing, boxing, cartage, freight, insurance, and brokerage. Title to Products and risk of loss shall pass to Purchaser once Products are delivered to Purchaser’s stated address on an accepted Purchase Order.
- 1.6. Storage. Purchaser understands and agrees that Products require specific storage conditions prior to use, and accepts all responsibility for the storage of Products in accordance with Supplier’s published storage guidelines.

### 2. PAYMENTS

- 2.1. Price. Purchaser shall pay to Supplier the price for each Product as mutually agreed in writing. Prices of Products shall constitute confidential information of Supplier. All amounts payable for Products shall be payable in United States Dollars.



- 2.2. Invoicing. Supplier shall submit an invoice to Purchaser upon shipment of the applicable Product pursuant to a Purchase Order. Invoices will be sent to the address stated on the Purchase Order. Invoices shall be due and payable within thirty (30) calendar days of the date of such invoice. If any portion of an invoice is disputed in good faith, then Purchaser shall pay Supplier the undisputed amounts and the Parties shall use good faith efforts to reconcile the disputed amount as soon as practicable. Purchaser shall not be permitted to withhold or setoff any sums payable to Supplier.
- 2.3. Taxes. The prices of Products do not include, and Purchaser agrees to pay, all fees, taxes, and duties related to the purchase of Products except for income taxes Supplier accrues for the sale of Products.

### 3. PRODUCT MATTERS

- 3.1. Non-Conforming Orders. Purchaser shall send to Supplier notice in writing regarding any non-conforming order of Products it receives within forty-eight (48) hours of receipt of such Products. Products shall be deemed accepted and conforming, and Purchaser shall have no claim for patent or latent defects of Products, that have been in Purchaser's receipt for more than forty-eight (48) hours. In the case of alleged non-conforming orders, Supplier will decide, at its sole discretion in all instances, whether to refund the purchase price of Products, credit the price of Product against future Purchase Orders, replace the Products as soon as practicable, or take no action. In the case of quantity discrepancies between ordered and delivered quantities of Products, Purchaser shall notify Supplier in writing of such discrepancy, and if there is a shortfall of Product, Supplier shall send additional Product to account for the shortfall as soon as practicable. If there is a surplus of Product, Purchaser shall use best efforts to use the surplus of Product and will be invoiced accordingly, but any unused surplus of Products may be destroyed by Purchaser at no cost to Purchaser.
- 3.2. Recalls & Adverse Event Reporting. If Purchaser believes in good faith that a Product should be recalled, withdrawn, recovered, or corrected, it shall immediately notify Supplier of such finding, and where possible defer any ensuing action or public communications (including without limitation recalls) to Supplier. Further, Purchaser shall immediately confidentially notify Supplier of any adverse events, malfunctions, incidents, near incidents, or other similar events that occur during the commercialization of the Products, and where possible defer any ensuing action or public communications to Supplier. The Parties shall work together in good faith to expediently and confidentially rectify any alleged or actual issues or defects of or with Products.
- 3.3. Communication with Regulatory Agencies. Purchaser shall immediately inform Supplier if it receives any communication from any regulatory or governmental agency related to the Products. Supplier shall have the sole right to communicate with the FDA or any other regulatory agency concerning the Products. If Purchaser becomes engaged in or participates in any investigation, claim, litigation, or other proceeding with any third



party relating in any way to Products, it will cooperate in all reasonable respects with Supplier in connection therewith.

- 3.4. Product Substitution. If a Product is unavailable for supply, Supplier reserves the right to substitute such Product with another materially comparable Product of equal or greater value.
- 3.5. Compliance. The Parties agree that if necessary, they will use good faith efforts to promptly enter into a business associate agreement, or do such other acts as are reasonably necessary to be compliant with HIPAA privacy standards. Purchaser will not provide any specifically identifiable patient information to Supplier. Each Party shall keep all records relevant to this Agreement on file for periods as required by law, and shall provide reasonable assistance to the other Party for regulatory inspections related to such records.

#### **4. REPRESENTATIONS AND WARRANTIES**

- 4.1. Authority of Parties. Each Party covenants, represents, and warrants to the other that it is fully authorized to execute this Agreement and to bind itself or its principal, if any, and to perform its obligations hereunder according to the terms set forth herein. Each Party further represents that its execution of this Agreement and performance of its obligations hereunder are not and will not be in violation of any obligations it may have to any third party.
- 4.2. Supplier Warranties. Supplier covenants, represents, and warrants that: (a) Products shall conform to their stated specifications; and (b) title to all Products shall pass free and clear of any security interest, lien, or other encumbrance.
- 4.3. Purchaser Warranties. Purchaser covenants, represents, and warrants that: (a) Products shall not be used to infringe the intellectual property rights of Supplier or third parties; (b) Products shall only be used in the United States if shipped to a United States address, or in Canada if shipped to a Canadian address; (c) Products shall not be used for any purpose except for their intended purpose; (d) Products shall not be modified or combined with other products; (e) Products shall not be further sold, pledged, transferred, consigned, or otherwise commercialized except to patients for end use, or with the express written consent of Supplier.
- 4.4. Disclaimer. Except as provided for herein, neither Party makes any warranties or conditions (express, implied, statutory or otherwise), with respect to the subject matter hereof and each Party expressly disclaims any such additional warranties.

#### **5. INDEMNIFICATION; LIMITATION OF LIABILITY**

- 5.1. Indemnification by Purchaser. Purchaser shall indemnify, defend, and hold harmless Supplier, its subsidiaries and affiliates, and their respective trustees, directors, officers, employees, and agents harmless from and against any and all third party claims, liabilities,



losses, expenses, damages, judgments, and costs (including reasonable attorneys' fees) arising out of or relating to (i) Purchaser's breach of this Agreement, (ii) products liability claims for resale of Products, or (iii) the gross negligence, fraud, or intentionally wrongful act or omission of Purchaser or its officers, employees, or agents.

5.2. Limitation of Liability. EXCEPT FOR A PARTY'S WILLFUL MISCONDUCT OR FRAUD, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, SPECIAL, REMOTE OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFITS) ARISING FROM OR CAUSED, DIRECTLY OR INDIRECTLY BY THE PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, OR BY ANY OTHER ACT OR OMISSION OF THE PARTIES, OR BY ANY OTHER CAUSE. IN ALL INSTANCES, SUPPLIER'S AGGREGATE LIABILITY HOWSOEVER ARISING SHALL BE CAPPED AT THE COST OF PRODUCTS PURCHASED BY PURCHASER.

## 6. GENERAL

- 6.1. Control of Documents. In the event of any conflict between this Agreement and any Purchase Order, this Agreement shall control. This Agreement specifically replaces and supersedes any standard terms and conditions, or implied terms and conditions of either Party, and is the sole document governing the relationship of the Parties regarding the supply of Products from Supplier to Purchaser absent a definitive valid and binding supply agreement.
- 6.2. Insurance. Each Party shall maintain, at its cost, a program of insurance by a reputable insurance company on commercially reasonable terms against liability and other risks associated with its activities and obligations under this Agreement.
- 6.3. Licenses and Permits. Each Party shall, at its sole cost and expense, maintain in full force and affect all necessary licenses, permits, and other authorizations required by applicable laws in order to carry out its duties and obligations hereunder.
- 6.4. Intellectual Property. This Agreement grants no copyright, trademark, trade secrets, patent rights, or licenses, express or implied to Purchaser.
- 6.5. Mediation. In the event of a dispute between the Parties related to this Agreement, the Parties agree to use commercially reasonable efforts to mediate such dispute for thirty (30) days prior to making or threatening to make any court action.
- 6.6. Governing Law. Any and all actions between the Parties regarding the interpretation or application of any term or provision contained herein shall be governed by and interpreted in accordance with the laws of the State of Delaware. The Parties irrevocably submit to the jurisdiction of the Court of Chancery of the State of Delaware, and any appellate court thereof, for any action or proceeding regarding this



Agreement, and both Parties waive any right to assert the doctrine of forum non conveniens or otherwise object to the jurisdiction or venue of such courts.

- 6.7. Notices. Any notice required or permitted to be given hereunder shall be in writing and shall be delivered in person, by a nationally recognized overnight courier, or by registered or certified airmail, postage prepaid to the addresses first stated above, or such other addresses as may be designated in writing by the Parties from time to time, and shall be deemed to have been given upon receipt.
- 6.8. Non-Waiver. A waiver by any Party of any of the terms and conditions of this Agreement in any instance will not be deemed or construed to be a waiver of such term or condition for the future, or of any subsequent breach hereof. All rights, remedies, undertakings, obligations and agreements contained in this Agreement will be cumulative and none of them will be in limitation of any other remedy, right, undertaking, obligation or agreement of either Party.
- 6.9. UN Convention. The Parties expressly agree that the UN Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
- 6.10. Severability. To the extent any provision or term set forth herein is or becomes unenforceable by operation of law, such unenforceability shall not affect the remaining provisions of this Agreement. The Parties agree to renegotiate in good faith any provision or term held to be unenforceable and to be bound by the mutually agreed substitute provision.
- 6.11. No Third Party Beneficiaries. All rights, benefits and remedies under this Agreement are solely intended for the benefit of Supplier and Purchaser.
- 6.12. Relationship of Parties. The Parties agree that their relationship established by this Agreement is that of independent contractors. Furthermore, the Parties agree that this Agreement does not, is not intended to, and shall not be construed to establish a partnership or joint venture, nor shall this Agreement create or establish an employment, agency or any other relationship. Except as may be specifically provided herein, neither Party shall have any right, power or authority, nor shall they represent themselves as having any authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other Party, or otherwise act as an agent for the other Party for any purpose.
- 6.13. Force Majeure. Neither Party shall be liable for a failure or delay in performing any of its obligations under this Agreement, except for payment obligations, only if such failure or delay is due to causes beyond the reasonable control of the affected Party, including: (a) acts of God; (b) fire, explosion, or unusually severe weather; (c) war, invasion, riot, terrorism, or other civil unrest; (d) governmental laws, orders, restrictions, actions, embargo or blockages; (e) national or regional emergency; (f) strikes or industrial disputes at a national level which directly impact the affected Party's performance under this Agreement; (g) pandemic or other outbreak with



government mandated business closures; or (h) other similar cause outside of the reasonable control of such Party ("Force Majeure"); provided that the Party affected shall promptly notify the other of the Force Majeure condition and shall use reasonable efforts to eliminate, cure or overcome any such causes and resume performance of its obligations as soon as possible.