

GENERAL TERMS AND CONDITIONS

Updated January 16, 2022

1. **ACCEPTANCE:** These Terms and Conditions (“Contract”) apply to all Purchase Orders placed by Buyer (“Purchase Order”), and any provisions in a Purchase Order, any confirmation, email, fax, or other writing of whatever kind inconsistent with or in addition to the terms of this Contract shall not be binding upon Seller (“DermaCare Biosciences”) unless expressly approved in writing by Seller making specific reference to the inconsistent or additional term or condition. If a Purchase Order is given pursuant to any existing Manufacturing or Supply Agreement between Seller and Buyer, it is subject to the terms of such agreement and such terms shall control in the case of any conflict with the provisions hereof. Otherwise, Seller’s acceptance of a Purchase Order for the purchase of the goods and/or services described therein (collectively the “Products”), is subject to these terms and conditions, unless Buyer advises Seller in writing of any exception terms, and Seller accepts such Exception Terms in writing. In the case of Exception Terms, the Delivery date may be tolled and Seller may withhold performance until agreement thereon is reached in writing. Unless so modified in writing, this Contract is the final expression of the entire agreement of Seller and Buyer and is intended also as the complete and exclusive statement of all terms of their Agreement. No evidence of any prior or contemporaneous agreement or negotiation, whether oral or written, or any evidence of course of dealing, usage of trade or course of performance may be used to contradict, explain, or supplement this Contract, nor may the same be used to establish that because of mistake the writing does not reflect the actual agreement of the parties.

2. **PRICE:** Products shall be delivered at the prices stated in the Purchase Order Acceptance (“Product Price”). All Product Prices expressed are F.O.B Seller’s specified loading dock. If payment is made by credit card, all credit card fees shall be passed through to Buyer.

3. **TERMS:** Payment terms are 50% at time of placing the Purchase Order with the remaining 50% paid prior to shipment. **100% payment at the time of Purchase Order placement will expedite the order.** All sales are final. Due to the nature of the Products, returns will not be accepted. Once a Purchase Order has been acknowledged and accepted by Seller, the Purchase Order cannot be canceled.

4. **SHIPMENT:** The proposed shipping date is necessarily an estimate and subject to, among other things, manufacturing lead times. Buyer will be notified when the Products are ready to be picked up. Title and the risk of loss of the Products shall pass to Buyer at the time the Products are shipped.

5. **NONPERFORMANCE/FORCE MAJEURE.** If the manufacture, transportation, delivery or receipt by either party of any materials covered hereby is prevented, restricted or interfered with by reason of any event or cause whatsoever beyond the reasonable control of the party so affected, such party

shall be excused from making or taking deliveries hereunder to the extent of such prevention, restriction or interference. Such events include, but are not limited to, fires, floods, accidents, wars, revolutions, riots, insurrections, acts of God, acts of government (including without limitation any agency or department of the United States), scarcity of required resources, and diseases and/or public health emergencies. If by reason of any such event or cause, the quantities of the materials covered hereby, or of any materials used in the production thereof reasonably available to Seller shall be less than its total needs for its own use and for sale, Seller may allocate its available supply of any such materials among its existing or prospective purchasers in such manner as Seller deems proper, without thereby incurring liability for failure to perform this contract.

6. **LIMITATION OF LIABILITY: IN NO EVENT SHALL EITHER PARTY OR THEIR REPRESENTATIVES BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS, LOST REVENUES, OR DIMINUTION IN VALUE OR ACTUAL LOSS OF BUSINESS, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT THE OTHER PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (e.g., CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

7. **BUYER’S WARRANTIES; COMPLIANCE WITH LAWS:** Buyer warrants that it will abide by all federal, state, and local laws and/or regulations in selling or using the Products, whether in effect now or in the future, including, but not limited to, trademark usage and licensing, Food & Drug Administration (“FDA”) Emergency Use Authorization requirements, and other applicable laws. Any and all agreements required by applicable law or regulation to be incorporated into the Purchase Order and these Terms and Conditions are hereby incorporated. Buyer warrants that it will affect compliance with all applicable U.S. export and/or import regulations. Buyer agrees that it will not export, directly or indirectly, any of the Products or data provided under this Purchase Order to any country without first obtaining any required U.S. government approvals or licenses. In addition, Buyer agrees to comply with all applicable local country export and/or import laws and regulations of the country(ies) of procurement, production, and/or destination of the Products. Buyer understands and agrees that the foregoing obligations are legal requirements and that they shall survive any term or termination of this Purchase Order.

8. **BUYER'S INDEMNIFICATION:** Buyer shall indemnify, defend, and hold harmless Seller and its affiliates and their respective owners, agents, officers, and employees from and against all claims, liability, loss, cost, expense (including reasonable attorneys' fees), judgments, and damages which arise from (a) any breach of Buyer's warranties contained herein or any other provision of this Contract by Buyer; (b) bodily injury (including death) or damage to personal property caused by Buyer or its agents or employees; (c) the negligence or willful misconduct of Buyer, its officers, directors, owners, members, managers, employees, agents, or contractors; (d) any representations or claims (other than as made by Seller in this Contract) made to third parties by Buyer or its affiliates or their respective agents or employees with respect to the Products, whether contained in Buyer advertising, on the labels, or otherwise; (e) Buyer's not shipping, warehousing, and distributing finished Product as per the shipping and storage conditions which are specified after the Product has shipped from Seller; (g) damaging or tampering with the Products by anyone other than Seller, its employees, agents, contractors, licensees, or invitees; and (f) any claims (including without limitation product liability) related to the health, efficacy, safety, design, or Specifications of a Product, or any Product's regulatory status as determined or classified by the FDA.

9. **ASSIGNMENT:** Neither this Agreement, nor any right or interest herein may be assigned by either Party without the express written consent of the other Party. Assignments made without such consent shall be null and void. This restriction shall not apply in the event of the change of Control, merger, or sale of substantially all of the assets of the business of either Party.

10. **SELLER'S REMEDIES:** The occurrence of any of the following events shall constitute a default by Buyer and a breach of the entire Contract: (a) Buyer's failure to perform any of its obligations in this Contract, including but not limited to the obligation to accept and pay for any Product ready to be shipped hereunder; (b) Buyer's insolvency as defined by the law of any jurisdiction, inability to pay its debts as they become due, making any assignment for the benefit of creditors, commencement of bankruptcy or insolvency proceedings by or against Buyer, any reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy; the appointment of a receiver, trustee, custodian or other similar official for it or for all or a substantial part of its property; (c) the issuance of any execution process, or any condemnation, levy, forfeiture, or similar action against the Products which are the subject of this Contract or any portion thereof; and (d) default by Buyer under any other contractual undertaking between Buyer and Seller.

11. **APPLICABLE LAW; FORUM SELECTION AND CONSENT TO JURISDICTION:** The parties hereto agree that all actions or proceedings arising in connection herewith shall be tried and litigated exclusively in the applicable Federal or State courts in and for the State of Florida, Palm Beach County, without regard to conflicts of laws rules. The parties agree to exclude the application of the U.N. Convention on Contract for the International Sale of Goods. In any action to enforce the terms of the Purchase Order, the prevailing Party shall be awarded all court costs and reasonable attorneys' fees incurred, including such costs and fees incurred in enforcing and collecting any judgment.

12. **CONFIDENTIALITY:** Any and all Seller information, whether written, disclosed orally, visually, or learned by observation that is marked as confidential, or which is reasonably understood to be confidential, shall constitute Seller confidential information under this Purchase Order. Buyer shall hold confidential information in strict confidence and use same only for purposes of executing the Purchase Order and not for its own benefit or the benefit of any third party.

13. **SEVERABILITY:** Should any provision of the Purchase Order or these Terms and Conditions be declared invalid, illegal or unenforceable, all remaining provisions shall not in any way be affected or impaired.

14. **ENTIRE AGREEMENT:** This Purchase Order is the complete, final statement of terms between the parties. It supersedes any and all prior or contemporaneous negotiations or agreements, whether oral or reduced to writing, relating to the subject matter contained herein. If the Buyer and Seller are already parties to a valid and current written agreement having a scope which includes the purchase of Products that are the subject of this Purchase Order, then the terms of such Agreement shall be controlling. If there is no such Agreement, any inconsistency in the Purchase Order itself will be resolved in accordance with the following, in descending order of superiority: (a) these Terms and Conditions, (b) the face of the Purchase Order document, (c) supplementary terms and conditions or other provisions referenced in the Purchase Order; and (d) any other documents incorporated into the Purchase Order by reference. No waiver of any term of this Purchase Order shall imply a subsequent waiver of the same or any other term or constitute a continuing waiver.