

## Eclipse BioInnovations, Inc. Standard Terms and Conditions of Sale

ALL SALES MADE BY ECLIPSE BIOINNOVATIONS, INC. (“ECLIPSE”) TO THE BUYER (“BUYER”) FOR ITEMS LISTED ON THE PURCHASE ORDER (THE “PRODUCTS”) ARE EXPRESSLY CONDITIONED ON BUYER’S ACCEPTANCE OF THE FOLLOWING TERMS AND CONDITIONS (THESE “TERMS AND CONDITIONS” OR “AGREEMENT”). THESE TERMS AND CONDITIONS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN ECLIPSE AND BUYER AND SUPERSEDE ALL PREVIOUS NEGOTIATIONS, DISCUSSIONS AND UNDERSTANDINGS, WHETHER ORAL OR WRITTEN, BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF. ECLIPSE WILL NOT BE BOUND BY ANY TERMS OF BUYER’S PURCHASE ORDER OR OTHER DOCUMENT THAT ARE ADDITIONAL OR INCONSISTENT WITH THESE TERMS AND CONDITIONS, AND ALL SUCH TERMS SHALL BE EXCLUDED. THESE TERMS AND CONDITIONS MAY ONLY BE AMENDED OR WAIVED BY A WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF ECLIPSE.

1. **Terms and Conditions.** All purchase order acceptances shall be conditioned upon Buyer’s unqualified acceptance of these Terms and Conditions set forth herein, which may be made by written acceptance or by receipt by Buyer of delivery of any Products and failure to return such Products to Eclipse within five (5) days of delivery.

2. **Order and Acceptance.** Orders for Products shall be made online, by phone, or by written purchase order. All purchase orders will reference these Terms and Conditions. No order shall be binding upon Eclipse until accepted by Eclipse in writing, and Eclipse shall have no liability to Buyer with respect to purchase orders that are not accepted. Buyer shall submit purchase orders to Eclipse in accordance with Eclipse’s then current lead times. Once Buyer has placed an order, Buyer cannot cancel or change such order without Eclipse’s written consent.

3. **Delivery, Shipping, Risk of Loss.** Eclipse will use reasonable efforts to deliver Products at the times specified in Eclipse’s acceptance of Buyer’s purchase order, provided, however, that all delivery dates are estimates only and deliveries may be in installments. Eclipse reserves the right to cancel or delay an order or contract for Products. All Products delivered hereunder will be marked for shipment to Buyer’s address specified in Buyer’s purchase order, and shipped, at which time risk of loss from any casualty and title pass to Buyer. Unless otherwise specified in an order, all freight, insurance and other shipping and handling expenses will be borne by Buyer. No returns will be accepted once product has been shipped.

4. **Price.** Prices for Products shall be stated in each purchase order. Eclipse has the sole right to revise purchase prices upon written notice to Buyer. Price changes will apply to all purchase orders received after the effective date of the price revision.

5. **Payment Terms.** At the time of placing an order, whether online, by phone, or by written purchase order, Buyer shall pay Eclipse the full amount quoted by Eclipse in such order. Buyer will make payments in United States dollars by check, credit card or wire transfer. Buyer hereby authorizes Eclipse, or its designated third party payment processor, to charge the payment method Buyer specifies at the time of placing an order for all sums described in such order. Pre-authorization of Buyer’s credit card account may be sought prior to purchase to verify that the credit card is valid and has the necessary funds or credit available to cover Buyer’s purchase. Eclipse may charge, and Buyer must pay, fees or charges that are incidental to any chargebacks or collection of unpaid amounts for Products ordered by Buyer, including collections fees. If Buyer pays for its order with an international credit card, the purchase price may fluctuate with exchange rates, and Buyer’s bank or credit card issuer may charge Buyer foreign currency conversion fees. Buyer must pay such order in full, including all applicable taxes, prior to any delivery of Products.

6. **Taxes.** Any use tax, sales tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority, on or measured by the transaction between Eclipse and Buyer shall be paid by Buyer in

addition to the purchase price for the Products. Such taxes shall be included in each order and paid in full along with the price quoted for the Products. In the event Eclipse is required to pay any such tax, fee or charge, Buyer shall reimburse Eclipse therefore; or, in lieu of such payment, Buyer shall provide Eclipse at the time the order is submitted an exemption certificate or other document acceptable to the authority imposing the tax, fee or charge.

7. **Substitutions and Modifications.** Eclipse will have the right to make substitutions and modifications in the specifications or composition of Products or protocols related to Products sold by Eclipse without incurring any obligations to replace or modify any Products previously sold or transferred to Buyer.

8. **Ownership, Limited License.** Eclipse retains all proprietary rights in and to all designs, engineering details, and other technology and information pertaining to the Products and any improved, updated, modified or additional parts thereof. Buyer hereby irrevocably assigns to Eclipse all right, title and interest worldwide in and to any improvements, updates, modifications or additions to or related to the Products. At Eclipse’s sole expense, Buyer shall execute any documents and take all additional steps as reasonably requested by Eclipse to perfect, record, and register such assignment. Except as authorized by Eclipse in writing or as permitted by law, Buyer will not reverse engineer, reverse compile, or reverse assemble any Products.

Buyer has a limited non-exclusive, non-transferable, non-sublicenseable license to use the Products for internal research purposes only for the sole benefit of Buyer, subject to the use restrictions licenses included in these terms and conditions. Buyer acknowledges and agrees that the receipt or purchase of the Products by Buyer shall not be construed as a transfer of any title or the grant of any rights in or to the intellectual property embodied in the Products owned or licensed by Eclipse. The sale of Products ordered hereunder does not grant to, convey or confer upon Buyer or Buyer’s customers, or upon anyone claiming under Buyer, a license, express or implied, under any patent right, copyright, or other intellectual property right of Eclipse covering or relating to any use other than is consistent with the labeling or instructions for use thereof.

9. **Product Use and Restrictions.** Buyer will use Products in accordance with the specifications, instructions for use, purchase order, safety and hazard instructions, and the labels provided with the Product. Buyer is responsible for ensuring that the way that it uses Products complies with all applicable laws and regulations. Buyer acknowledges that the Products have not been subjected to regulatory review or approved or cleared by the United States Food and Drug Administration (“FDA”) or any other entity, or otherwise reviewed, cleared or approved under any statute, law, rule or regulation for any purpose, whether research, commercial, diagnostic or otherwise. Accordingly, Buyer acknowledges that the Products provided hereunder are for internal research use only.

10. **Limited Remedy.** Eclipse’s entire liability and Buyer’s exclusive remedy is limited to replacement of Products or refund of the Purchase Price at Eclipse’s sole option. Buyer agrees that to obtain any remedy (a) Buyer must promptly notify Eclipse in writing upon

discovery that the Products failed to conform to these Terms and Conditions with a detailed explanation of any alleged deficiencies, (b) Buyer must return the Products to Eclipse, and (c) Eclipse shall determine by examination of the returned Products that such alleged deficiencies actually exist and were not caused by accident, neglect, misuse, alteration by or of Buyer.

11. **Disclaimer of Warranties.** THE PRODUCTS ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND THE ECLIPSE SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. No oral or written information or advice given by Eclipse or its employees will create a warranty or in any way increase the scope of the limited warranties set forth herein, and Buyer may not rely on any such information or advice.

12. **Indemnification.** Eclipse agrees to defend, indemnify and hold harmless Buyer from and against all claims, losses, demands, fees, damages, liabilities, costs, expenses (including attorneys' fees), obligations, causes of action, suits or injuries of any kind or nature arising from a third party, in connection with or related in any way to any breach or alleged breach of any of the warranties made by Eclipse or any act or omission of Eclipse in the performance of an order, which constitutes gross negligence or willful misconduct.

13. **Buyer Indemnification.** Buyer shall defend, indemnify, and hold harmless Eclipse from and against any liability, damage, loss, or expense (including reasonable attorneys' fees and expenses of litigation) in connection with any third party claims, suits, or proceedings arising out of or relating to the use of the Products, unless proximately caused by the sole gross negligence or willful misconduct of Eclipse. The provisions of this Section 13 shall not limit Eclipse's obligations pursuant to Section 12.

14. **Limitation of Liability.** Eclipse's liability and Buyer's remedies arising out of or related to sale of the Products, shall not exceed the Purchase Price paid by Buyer for the Products giving rise to such liability. IN NO EVENT SHALL ECLIPSE BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, LOST PROFITS OR BUSINESS OPPORTUNITIES OR ANY OTHER INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR RELIANCE DAMAGES, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE. THESE LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER ECLIPSE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

15. **Miscellaneous.** These Terms and Conditions contain the entire agreement and understanding between the parties on the subject of the sale of the Products. No representations or statements, other than those expressly set forth herein, were relied upon by the parties in entering into these Terms and Conditions. No modification or waiver of, addition to, or deletion from, these Terms and Conditions shall be effective unless reduced to writing and signed by duly authorized representatives of the parties hereto. The parties acknowledge that the broad applicability of the Products may make them useful in applications for which they were not expressly designed and which may involve dangers to human health or safety such as using Products for an individual other than the one which such Products were intended. These Terms and Conditions shall be governed by and interpreted in accordance with the laws of the State of California, U.S.A. without reference to conflicts of law principles. Any dispute arising out of these Terms and Conditions shall be brought in, and the parties consent to personal and exclusive jurisdiction of and venue in, the state and federal courts within San Diego County, California. Failure or delay by either

party in exercising any right hereunder shall not operate as, or be deemed a waiver of such right or of any other right hereunder, except for violations which, after discussion and mutual agreement by the parties, are waived in writing. Except for payment obligations, neither party shall be liable for damages for any delay arising out of causes beyond their reasonable control, including without limitation acts of God, labor disputes, riots, wars, component shortages. If any provision of these Terms and Conditions is held to be invalid or unenforceable, the remainder of these Terms and Conditions shall continue in full force and effect and will be interpreted to reflect the original intent of the parties.