

ORTHOACCEL® TECHNOLOGIES, INC.
STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions contain the complete and exclusive statement of the terms and conditions relating the sale of products or components thereof (collectively, the “goods”) by OrthoAccel Technologies, Inc. (“Seller”) to a buyer (“Buyer”). Any additional or different terms shall not be part of an order unless approved by Seller in writing:

1. Acceptance, Waiver, Modification, Interpretation and Construction.

Orders that are accepted, and contracts that are formed, are accepted or formed at Seller's offices on the terms and conditions set forth herein. Buyer shall be deemed to consent to these standard terms and conditions as a condition to Seller's acceptance of any order. These standard terms and conditions shall control over any contrary or additional terms and conditions on any order or other document of Buyer, and all such additional terms and conditions are hereby objected to and shall not be binding on Seller. Waiver of any term or condition of sale shall not constitute waiver of any other term or condition or legal remedy of Seller. Seller's failure to object to any communication or part thereof from Buyer shall not be deemed to be an acceptance of any provisions thereof or a waiver of any of the terms hereof. Any act by Buyer of confirmation of any transaction contemplated hereby, including any order issued in response to a quotation of Seller, shall constitute Buyer's acceptance of these standard terms and conditions. No modification of any order or contract shall be binding unless contained in a written document that is signed by both parties and that specifically refers to the order or contract to be modified. Orders and contracts shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Texas without reference to its choice of law rules. Terms used herein that are defined in the Uniform Commercial Code shall have the meanings given to them in the Uniform Commercial Code.

SELLER'S QUOTATION UNDER THE PURCHASE ORDER AND TOGETHER WITH THESE STANDARD TERMS AND CONDITIONS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES AND SUPERSEDE ALL PREVIOUS COMMUNICATIONS, REPRESENTATIONS OR AGREEMENTS, EITHER ORAL OR WRITTEN BETWEEN THE PARTIES. NO COURSE OF PRIOR DEALING BETWEEN THE PARTIES AND NO USAGE OF TRADE SHALL SUPPLEMENT ANY TERM CONTAINED HEREIN. ACCEPTANCE OR ACQUIESCENCE IN A COURSE OF PERFORMANCE RENDERED SHALL NOT BE RELEVANT TO DETERMINE THE MEANING OF ANY AGREEMENT WITH SELLER EVEN THOUGH THE ACCEPTING OR ACQUIESCING PARTY HAS KNOWLEDGE OF THE NATURE OF THE PERFORMANCE AND OPPORTUNITY FOR OBJECTION.

2. Price, Payment and Taxes.

Payment terms are 30 days. Payment is by credit card unless Seller has agreed to other payment terms with Buyer. Overdue amounts shall accrue interest at a rate of 18% per annum or the maximum legal rate, whichever is less. Buyer represents that all information contained in the most recent credit application delivered by Buyer to Seller is true, correct and complete in all

material respects. Credit and delivery are subject to Seller's approval, and Seller reserves the right to alter the terms and fix a limit of credit. Each order or contract shall be treated as a distinct contract, provided that if Buyer shall fail to fulfill the terms of payment, Seller may, without prejudice to any other lawful remedy, pursue one or more of the following remedies: (1) defer or delay further shipments; (2) cancel any order or contract; (3) require Buyer to make cash payments or provide security satisfactory to Seller before making shipment; (4) accelerate the due date of payment by the Buyer under any other contract or order; (5) stop goods in transit to Buyer; (6) require payment at the time of delivery at Seller's factory or at such other time as Seller may specify; or (7) withdraw all unaccepted quotations. Buyer shall be liable to Seller for all costs and fees, including attorney's fees, incurred by Seller in connection with its efforts to collect any overdue account, whether or not suit is brought.

All quotations are valid only for the term of the acceptance period stated therein. Unless otherwise stated, such acceptance period shall commence with the date of Seller's quotation. In the absence of a written acceptance period, all quotations are for immediate acceptance. Seller's quoted prices are exclusive of Federal, state or municipal sales, GST, use or similar taxes. Such taxes shall be added to the invoice as a separate item, or separately invoiced, and paid by Buyer.

3. Limitation and Exclusion of Warranties.

a. Limited Warranty, Disclaimer and Limited Remedy.

THE INSTRUCTIONS FOR USE SUPPLIED WITH EACH GOOD SOLD BY SELLER CONTAIN A LIMITED WARRANTY FOR SUCH GOOD, EXCLUDE ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND LIMIT BUYER'S REMEDIES FOR BREACH OF THE APPLICABLE LIMITED WARRANTY. SELLER DISCLAIMS ALL OTHER WARRANTIES, IT BEING UNDERSTOOD THAT THE INSTRUCTIONS FOR USE SET FORTH THE SOLE AND EXCLUSIVE WARRANTY FOR ANY GOODS SOLD BY SELLER TO BUYER EXCEPT AS OTHERWISE PROVIDED BY APPLICABLE LAW. No agreement varying or extending these warranties, remedies or limitations shall be binding upon Seller unless it is set forth in a written instrument signed by a duly authorized executive officer of Seller.

b. Title.

Seller warrants to Buyer that it will convey good title to the goods sold to Buyer hereunder. Seller's liability and Buyer's remedy under this warranty shall be strictly limited to the removal of any title defect or, at the sole option of the Seller, to the replacement of the goods or parts thereof that suffer from a defect in title.

4. Excusable Delays.

Seller shall not be liable for delay or non-delivery when the delay or non-delivery is caused, directly or indirectly, in whole or in part, by any one of more of the following: acts of God, wars, terrorism, sabotage, explosions, riots, earthquakes, storms, epidemics, hostilities, strikes, slowdowns, lockouts, fire, floods, lightning, tornadoes or wind, shortages of labor, fuel, power, materials or supplies, inability to secure materials, insufficient transportation facilities, delays in transportation of product or material or supplies, accidents to or malfunctions of plant or machinery, Government regulations, interference or embargoes and any other act or cause

outside of the control of Seller (whether or not similar in nature to any of those specified herein).

5. Title, Delivery, Risk of Loss and Shipping.

Delivery or shipment dates specified are Seller's best estimates and shall not bind Seller to ship or make deliveries on the date specified. Unless specifically stated in writing in Seller's quotation, Seller shall have no liability whatsoever for failure to meet delivery or shipment schedules. Unless otherwise stated in the quotation by Seller, all shipments shall be F.O.B. SHIPPING POINT. Title to and risk of loss of all goods sold hereunder shall pass to Buyer upon their delivery, f.o.b. Seller's factory to any agent of Buyer, including a common carrier or warehouse, as hereinafter provided. Wherever transportation rates and carrier's liability for damage depend upon the value of the shipment as declared by shipper, Seller shall declare the value entitling shipment at the lowest permissible transportation rates unless otherwise instructed in writing by Buyer. Buyer shall furnish written destination instructions for all goods at the time of order. Seller shall, for the account and at the expense and risk of Buyer, arrange for shipment of the goods by a carrier of its own selection to Buyer's destination. Seller shall not be liable for loss or damage attributed to negligence either in selection of the carrier or in agreeing with it to contract terms on Buyer's behalf.

6. Cancellations and Returns.

Orders may not be canceled and goods may not be returned for any reason without prior written authorization and, if applicable, shipping instructions from Seller. All goods returned for "NON-WARRANTY REASONS" with Seller's authorization are subject to a restocking charge equal to 30% of the applicable invoice price plus applicable freight charges both ways.

7. Inspection.

Buyer shall inspect the goods upon receipt, and shall, within 30 days after receipt, give written notice to Seller of any grounds for rejection and afford Seller a reasonable opportunity to inspect the goods and make any appropriate adjustment or replacement. The remedies afforded Buyer under Section 3 shall be the exclusive remedies for defective goods whether or not discovered upon inspection by Buyer. Buyer shall not delay payment for the goods pending their inspection.

8. Limitation of Liability.

In no event shall Seller be liable to Buyer for punitive or special damages, including, without limitation, any damages for loss of goodwill or reputation. The limitations of liability set forth herein shall be in addition to, and do not in any way restrict, the limitations of liability set forth in the Limited Warranty.

9. No Assignment.

Buyer may not assign the order, in whole or in part, to any affiliate or third party without the prior written consent of Seller. Any purported assignment in violation of this provision shall be null and void.

