

GENERAL TERMS AND CONDITIONS

LifeNet Health Europe GmbH ("LNH") is a non-profit tissue bank under Austrian law and applicable European Directives (2004/23/EC et al.) and as such entitled and authorized, in a network with other certified and audited providers, to distribute human tissue products. LNH helps to save lives and restore health for thousands of patients each year.

PLEASE READ THIS DOCUMENT CAREFULLY. IT CONTAINS VERY IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU.

- 1. Acceptance of Terms and Conditions.** The provision of the allograft tissue products (the "**Tissues**") indicated on the face of this document (offer or invoice) to customer ("**Customer**") is expressly made conditional upon Customer's agreement to these General Terms and Conditions ("**GTC**"). These GTC apply exclusively to all business relationships between Customer and LNH, any conflicting purchase orders or general terms and conditions of Customer shall not be recognized by LNH; these GTC shall control. Agreements or side agreements deviating from these GTC shall be effective only if they are expressly accepted by LNH in writing.
- 2. Authorizations and obligations of Customer.** Customer warrants it is a tissue bank, a health institute or a specialized physician with the respective qualifications, authorizations, resources and facilities to accept, examine, store and/or implant Tissues in accordance with the therapeutic and legal requirements and to maintain the high quality and safety standards in dealing with tissues, as well as tissue establishments in the sense of Directive 2004/23/EC and in accordance with all applicable national laws and regulations and that it is fully proficient in English language and fully understands the content and meaning of this GTC. Customer should, in accordance with all applicable laws and regulations, notify LNH after Tissues obtained from LNH have been implanted in a recipient with individual label of the implanted Tissues (type and amount of Tissues, serial number) by using the form provided by LNH or equivalent notification. Customer is obligated to ensure the traceability of the Tissues by documenting the following information, archiving it in legible form for at least 30 years after the Tissues are implanted or disposed of and providing such information to LNH within 10 days upon request: (a) Identification of the tissue bank that distributed the Tissues; (b) Identification of the physician/health institute that implanted or disposed of the Tissues; (c) Type of Tissues; (d) Identification of the Tissues (serial number); (e) Identification of the Tissue recipient; and (f) Date of implantation or disposal. Customer is obligated to inform LNH in writing within 24 hours of Customer's knowledge about any unusual medical circumstances that have arisen and that possibly may relate to the implanted Tissues. Customer is further obligated to have established procedures that ensure that all serious events that could affect the quality and/or safety of the Tissues or be traced back to the quality and/or safety of the Tissues and all serious adverse reactions that arise upon or after the implantation of the Tissues and could be traced back to the quality and/or safety of the Tissues are notified reliably by informing LNH immediately by telephone (+43 1 375002710) and within 24 hours in writing of the event and by providing LNH within one working day with a detailed written report including all examinations and analyses carried out; the compliance with any and all additional notification duties under applicable laws and regulations, if any, remain Customer's responsibility. Customer must ensure that the recipient is informed (i) of all advantages and disadvantages of the proposed implantation before the procedure in accordance with the respective relevant laws and the associated rules and (ii) that the risk that infectious diseases are transmitted is limited by strict screening of the donor in line with the applicable laws but that, nevertheless, a certain residual risk remains in connection with receiving Tissues. Without prior written consent from LNH, Customer may not make the Tissues available to third parties (apart from the Tissue recipient) or use it for any other purposes than therapeutic implantations. The person placing the order in the name and on behalf of the Customer warrants that it is authorized to legally bind the latter. Customer takes over the sole responsibility for the Tissues supplied by LNH upon opening the product packaging or when the first damage is done to the seal of the packaging (whichever occurs sooner), insofar as no earlier time is stipulated by law, contractual agreement or these GTC. In case of a product recall in connection with Tissues supplied by LNH to Customer, both parties undertake to work together at own costs towards a speedy, safe and complete management of the product recall, including making any and all relevant information, reports and examination results available to the respective other party. Each contractual party is entitled to examine the other party's compliance with the rights and obligations set out in these GTC on site during the usual business hours subject to prior written notice at least 30 days in advance.
- 3. Conclusion of the contract.** LNH's offers and processing fee lists, regardless in what way published or communicated, remain free and non-binding; LNH expressly reserves the right to make technical and other changes. Promises, assurances of special features of the ordered Tissues and guarantees given by LNH as well as agreements deviating from these GTC shall only become binding upon explicit written confirmation by LNH. Only such information and specifications expressly confirmed by LNH in writing in the order confirmation or elsewhere and which became part of the written contract are relevant. The Customer's order constitutes a binding contractual offer that may be accepted by LNH within 10 working days upon receipt by issuing a written confirmation, invoice or delivery note or by actual performance (e.g. delivery of ordered Tissues).
- 4. Processing fees.** All processing fees named by LNH are exclusive of transportation charges and exclusive of special packing, if not explicitly agreed upon otherwise. LNH is entitled to adjust, and if necessary to increase, processing fees if relevant elements of costs change. Processing fees are net prices in EUR exclusive of VAT and are payable in EUR, or other currency if approved by LNH. Processing fees due for individual products are listed in applicable list of processing fees.
- 5. Payment.** Invoices from LNH are due for payment full and free of charges within 30 days from the invoice date. In case of late payments, LNH is entitled (i) to revoke any granted reductions on the amount due (e.g. discounts), (ii) to charge interest of 12% p.a. of the then outstanding amount, and (iii) to reimbursement of all extrajudicial expenses incurred in collecting the debt. LNH is entitled to set incoming payments off against older, unpaid deliveries even if Customer has instructed otherwise. Customer is not entitled to hold back or set off payments to LNH. If Customer cancels an order after the order confirmation has been issued, LNH is entitled to charge a cancellation fee of 25% of the amount due for this order. Repeated default of payment by Customer entitles LNH to suspend all deliveries until all defaults of payment have been remedied and to render outstanding and/or future deliveries only against payment in advance. For account inquiries, please call +43 1 375002710 and ask for Accounting.
- 6. Limited Warranty.** Customer is obligated to check the Tissues obtained from LNH for defects immediately upon delivery, even if it is intended and explicitly approved for redistribution, and to notify in writing any defect within 7 working days to LNH, failing which the right to assert claims for warranty, for damages due to the defect itself as well as due to an error on the absence of defects lapses pursuant to Sec. 377 Austrian Commercial Code (*Unternehmensgesetzbuch*). Customer grants LNH the possibility to examine any notified defect, failing which Customer loses its claim, whereas such examination may also be conducted by a person nominated by LNH by inspecting the relevant delivery and/or documents. To this end, LNH may also request from Customer to immediately return the delivered Tissues in the original packaging using a proper preservation method of LNH's choice. Tissues that are damaged or defective and that were not returned to LNH by its choice must be disposed of or destroyed in compliance with all applicable statutory provisions at cost and responsibility of Customer (the return of Tissues to LNH is prohibited). LNH shall meet rightful and verified warranty claims at own choice, either by remedy (in the form of a repair or supply of missing goods) or replacement within a reasonable period of time. Customer is entitled to a price reduction or conversion (*Wandlung*) only if such remedy or replacement does not take place within a reasonable period of time. Any and all claims of Customer shall expire – regardless of the degree of fault – at the latest 12 months after the delivery or rendering of the service to Customer.
- 7. Limitation of Liability.** Any and all claims for compensation against LNH are excluded in cases of slight and gross negligence (*leichte und grobe Fahrlässigkeit*). Liability of LNH is further limited in any and all cases to direct damages and to a liability limit in the amount of the available insurance sum per liability case; liability for any and all other types of damages (e.g. including loss of profit, interest, loss of earnings or future business opportunities, consequential damages) in particular including, but not limited to, indirect, personal, and non-material damages are explicitly excluded. In general, claims for compensation against LNH are limited to the maximum amount of insurance as in force at the time of contracting. Any obligation of LNH to pay compensation for damages to the goods or services and/or for administrative costs of Customer in connection therewith is expressly limited to 100% of the processing fee and any compensation for damages exceeding this amount is in any and all cases excluded. Any claims for compensation against LNH expire within 6 months after the time of knowledge, or grossly negligent lack of knowledge of the damages, regardless of the degree of fault.
- 8. Delivery.** Customer acknowledges that the availability of LNH's Tissues is dependent on the availability of suitable donors. Thus, Customer is aware, that products and services of LNH are not deliverable at all times and that deliveries shall be carried out subject to availability. The delivery periods and delivery dates stated by LNH are nonbinding and always subject to unrestricted transport possibility and availability of Tissues. Compensations for exceeded terms of delivery and contractual penalties due to late deliveries are excluded. LNH does not assume any liability for late deliveries, failure of delivery and/or otherwise defective delivery. Partial deliveries are admissible and may also be immediately invoiced as such. Force majeure events including, but not limited to, blockades, acts of God, shortages of raw materials, etc. entitle LNH, even during an event of default, to extend the delivery period for the duration of the hindrance without any possibility for claims to be derived therefrom against LNH. Unless explicitly agreed otherwise in writing, the "Free Carrier" rules of the Incoterms 2010 shall apply: The risk of loss passes to Customer upon handover of goods to the carrier, shipper or other person responsible for shipment and at latest when the goods leave the warehouse of LNH. This shall also apply if LNH covers the transport costs and/or if the carrier, shipper or other person responsible for shipment was commissioned by LNH. In case the shipping is delayed for circumstances lying within the Customer's responsibility the risk of loss is passed to Customer at the time of readiness for dispatch. Goods ordered from LNH must be taken over within the delivery period set by LNH, failing which LNH is entitled to either deliver the goods and charge the costs as agreed on or withdraw from the contract and charge a cancellation fee of 25% of the amount due for this order. The return of Tissues is explicitly excluded in any case. Customer shall be responsible for all customs and import tariffs, duties, import fees and similar charges, and all taxes and other government charges of any nature. LNH is only obligated to take out insurance upon Customer's explicit request in writing and costs.
- 9. Redistribution.** The redistribution of Tissues by unauthorized distributors is strictly prohibited. For international sales, Customer shall not be permitted to redistribute, reexport or otherwise transfer Tissues, or components thereof, and any materials distributed to Customer with the Tissues to any other country than the county to which the initial delivery to Customer is made by LNH without the express written consent of LNH.
- 10. No Reverse Engineering.** Reverse engineering of the Tissues by Customer or any third party to whom Customer provides the Tissues is strictly prohibited.
- 11. Indemnification.** To the fullest extent permitted by law, Customer shall indemnify and hold harmless LNH, its agents and its employees from and against all claims, damages, losses, and expenses (including, but not limited to, reasonable attorney's fees and costs) arising out of and/or resulting from the use or inability to use the Tissues or Customer's violations of applicable law, provided that such claim, damage, loss or expense is not caused by the sole negligence of LNH.
- 12. Severability.** Any provision of these GTC that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.
- 13. Governing Law, Venue.** The place of performance is Vienna, Austria. Austrian law shall apply exclusively to these GTC and to all business relationships between Customer and LNH, with the exception of the United Nations Convention on Contracts for the International Sales of Goods (UNCISG), which is excluded. For any and all disputes arising out of or in connection with these GTC and/or the contractual relationship between Customer and LNH, the respective competent court for the first district of Vienna with subject-matter jurisdiction shall have sole competence.

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Give healing every advantage

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