

## **IDT PURCHASE ORDER TERMS AND CONDITIONS (these “Terms and Conditions”)**

**1. Definitions.** The term “IDT” shall refer to IDT Biologika Corporation, a Delaware corporation. The term “Supplier” shall refer to the vendor designated on the face hereof and shall also include its employees, subcontractors, independent contractors, and all other persons performing any type of work under this Purchase Order, including these Terms and Conditions (“PO”). The term “good(s)” shall refer to the materials, supplies, items, and equipment covered by this PO. The term “services” shall refer to the work and/or services covered by this PO.

**2. Application of these Terms and Conditions; Acceptance.** These Terms and Conditions will govern this PO and the transaction contemplated herein to the entire exclusion of Supplier’s terms or conditions. No terms or conditions endorsed upon, delivered with, or contained in Supplier’s quotation, acknowledgement, or acceptance of a PO, specification or similar document (whether or not such document is referred to in this PO) and any terms and conditions which may otherwise be implied by trade, custom, practice or course of dealing will form part of this PO and Supplier waives any right which it otherwise might have to rely on such terms and conditions. These Terms and Conditions apply to all goods and/or services which IDT purchases and any variation to these Terms and Conditions will have no effect unless expressly agreed in writing and signed by a duly authorized IDT representative. If the parties have entered into a separate master agreement (or statement of work under a master agreement) which is in full force and effect in relation to the goods or services, the terms of that master agreement will apply and will take precedence over these Terms and Conditions. The contract for the supply of goods and/or services to IDT will be formed when IDT issues this PO to Supplier.

**3. Prices.** The price(s) set forth on the face of this PO are firm, and are not subject to increase, and include all Federal, state and local taxes imposed upon or on account of such sale, unless otherwise indicated on the face of this PO.

**4. Invoices.** All invoices shall be submitted as instructed by IDT or indicated on the face of this PO. In addition to any other information specified elsewhere herein, invoices and packing slips shall contain the following information: PO number, item number, description of goods and services, sizes, quantities, weight, unit prices and extended totals.

**5. Payment.** IDT shall make payment for goods and services within sixty (60) days after receipt of invoice and delivery and acceptance of the goods or complete performance of the services, unless different terms have been stated on the face of this PO. Payment of an invoice shall not constitute acceptance of goods or services and shall be subject to adjustment for errors, shortages, defects in the goods or services, damage to IDT for which Supplier is partially or wholly responsible, or other failure of Supplier to meet the requirements of the PO.

**6. Inspection.**

(a) Notwithstanding any prior inspections or payments hereunder, all goods and services shall be subject to final inspection, which may include measurement, testing, or examination, and acceptance at IDT’s facility within a reasonable time (but not less than 90 days) after receipt at destination. Any inspection by IDT does not relieve Supplier of any obligations or liabilities under this PO.

(b) If any goods or services delivered do not meet all of the requirements of this PO, IDT shall have the right to reject such goods or services and return such goods at Supplier’s expense. IDT may elect to reject the entire goods or services tendered even if only a portion thereof is nonconforming. If IDT elects to accept nonconforming goods or services, IDT, in addition to its other remedies, shall be entitled to an appropriate reduction in price. Payment for any goods or services shall not be deemed an acceptance thereof.

**7. Warranty.**

(a) Supplier warrants that all goods and services furnished hereunder shall: (i) be free from latent and patent defects in workmanship, material, manufacture, and design (where design is Supplier’s responsibility); (ii) comply with the requirements of this PO, including all drawings and specifications incorporated herein and samples and warranties furnished by Supplier; (iii) services will be performed by appropriately qualified and trained personnel with all due care and diligence and to the highest standard of quality prevailing in the industry at the time of performance; (iv) be merchantable and safe for consumer use, and fit and sufficient for the use intended by IDT; (v) be free and clear of any lien, security interest or other adverse claim against title; (vi) comply with the laws of the states and of the United States governing weights, measures and sizes; (vii) not be adulterated or misbranded within the meaning of any State food and drug laws or the Federal Food, Drug and Cosmetic Act, or not be an article which may not under the provisions of section 404 or 505 of the Federal Act or any other applicable Federal, State or local laws, be sold, legally transported or introduced into interstate commerce; and (viii) not infringe or misappropriate, including without limitation their sale, offer for sale, or use or practice alone or in combination, any United States or foreign patents, trademarks, trade secrets, copyrights or other intellectual property or proprietary rights of any third party.

(b) The foregoing warranties are in addition to all other warranties, expressed or implied, and shall survive any delivery, inspection, acceptance, and payment by IDT.

(d) Supplier’s warranties shall be effective for the period of time either (i) set forth on the face of this PO, or (ii) one (1) year from the date of IDT’s final acceptance, whichever is greater.

(e) These warranties shall run to IDT’s customers and users of its products.

(f) If any goods or services furnished hereunder do not meet the warranties specified in this PO, IDT may, at its option: (i) require Supplier to correct, at no cost to IDT, any defective or nonconforming goods or services by repair or replacement within seven (7) days of notice to Supplier; or (ii) return such defective or nonconforming goods at Supplier’s expense to Supplier and recover from Supplier the price thereof; (iii) correct the defective or nonconforming goods or services itself and charge Supplier with the cost of such correction; or (iv) accept the defective or nonconforming goods or services at a reduced price.

**8. Delivery.** Time is of the essence and the goods must be received or services performed on the dates and at the destination(s) set forth on the face hereof. If Supplier fails to meet any such delivery date, IDT may, without limiting its other rights and remedies, direct expedited routing, charge excess costs incurred thereby to Supplier, or cancel all or part of this PO. All rejected or over-run goods and material with IDT's printing or identification must be destroyed by Supplier at Supplier's expense and not sold as surplus.

**9. Freight; Title and Risk of Loss.** Unless otherwise specifically provided for herein, Supplier shall be responsible for freight and delivery to the destination specified on the face of this PO. All freight and delivery charges will be paid by Supplier. The goods will be delivered (DAP) Delivered at Place Incoterms 2020, at such place or point as IDT specifies, unless IDT specifies an alternative Incoterm on the face of this PO. Delivery of the goods will occur when they have been off-loaded at the delivery address. To the extent only of any inconsistency between DAP Incoterms 2020 and these Terms and Conditions, these Conditions will take precedence. Notwithstanding anything else herein, Supplier shall bear all risks of loss and damage to the goods until final acceptance by IDT at IDT's "ship to" destination specified on the face of this PO. Further, Supplier shall bear the same risks with respect to any goods rejected by IDT or as to which IDT has revoked its acceptance, from the time of such rejection or revocation.

**10. Changes.** IDT reserves the right at any time to change this PO in writing, and if such change causes an increase or decrease in price or delivery of goods or services, an equitable written adjustment shall be made.

**11. Confidentiality.** In its performance of this PO, IDT may disclose to Supplier or Supplier may have access to certain Proprietary Information of IDT. "**Proprietary Information**" means trade secrets (as defined by applicable laws), any data, reports, computer programs or models and related documentation, business or research plans, specifications, drawings, designs or information transmitted by IDT to Supplier in connection with this PO, and any other information that is of value to its owner and is treated as confidential, including without limitation, the fact that Supplier has furnished or contracted to furnish to IDT the goods or services covered by this PO. All Proprietary Information of IDT shall remain the property of IDT. Supplier shall keep all Proprietary Information of IDT confidential and use such information only as necessary to fulfill Supplier's obligations pursuant to this PO. All originals, copies, summaries and derivations of Proprietary Information in whatever form shall be returned to IDT upon IDT's request.

**12. Intellectual Property.**

(a) **Ownership.** All materials, equipment, tools, dies, molds, and any intellectual property rights in all drawings, specifications, materials and data supplied by IDT to Supplier will at all times be and remain IDT's exclusive property but will be held by Supplier in safe custody at its own risk and maintained and kept in good condition until returned to IDT and will not be licensed, transferred, assigned or otherwise disposed of other than in accordance with IDT's written instructions, nor will such items be used otherwise than as authorized by IDT in writing. Such items will be returned to IDT on demand. Supplier agrees that all writings, drawings, designs, copyrightable material, inventions (whether or not patentable), improvements, discoveries, developments, and all works of authorship created by Supplier in performance of services hereunder, including all worldwide rights therein under any patent, copyright, trade secret, confidential information, or any other intellectual property right (collectively "**Work Product**"), are the sole property of IDT. Supplier assigns to IDT all right, title and interest in and to all such Work Product, and shall perform such further acts needed to transfer, perfect, and defend IDT's ownership of the Work Product. Supplier shall require its subcontractors to execute written assignments of Work Product to effect such assignment.

(b) **License.** To the extent that Supplier or third parties retain ownership rights in materials delivered with the goods, or upon which the Work Product is based, Supplier hereby grants to IDT an irrevocable, worldwide, non-exclusive, royalty-free right and license to make, have made, modify, use, distribute, publicly perform or display, sell, offer to sell, and import such materials. Supplier hereby warrants that it owns or has acquired rights in all such intellectual property necessary to grant the licenses and intellectual property rights set forth in this Intellectual Property section.

**13. Liens.** If the goods or services are of such a nature that Supplier would be entitled to file a lien against IDT's real or personal property, Supplier shall submit a Release and Waiver of Lien and all applicable subcontractor's and materialman's Release and Waivers of Lien in a form acceptable to IDT prior to final payment by IDT.

**14. Work on IDT's Premises.** If the services are to be performed on IDT's premises, Supplier shall comply with all applicable safety laws and IDT's then current safety and other applicable regulations. Supplier shall provide IDT with a complete list of all chemicals, hazardous materials, and ingredients in the composition of goods or used in the performance of the services hereunder and a copy of the Material Safety Data Sheet for such chemicals and hazardous materials. The submission of such list by Supplier shall not relieve Supplier of exclusive responsibility for the safe transportation, use, storage, and disposal of such materials prior to acceptance by IDT. All chemicals and hazardous materials brought by Supplier to IDT's premises shall bear a label stating the identity of the chemical or material and the hazards associated therewith.

**15. Indemnity; Insurance.**

(a) Supplier shall defend, indemnify and hold IDT, its affiliated companies, and their respective shareholders, officers, directors, employees, agents, successors, and assigns harmless from and against any and all claims, suits, actions, liabilities, losses, costs, reasonable attorneys' fees, expenses, judgments or damages, whether ordinary, special or consequential arising directly or indirectly from or in connection with (i) the acts, negligence, omissions or willful misconduct of Supplier; (ii) goods or services supplied hereunder; (iii) a breach of any of Supplier's warranties or any other term and condition of this PO; (iv) Supplier's negligent, unauthorized or wrongful acts or omissions with regard to the transportation, use, handling, disposal, processing or installation of

hazardous materials; (v) a claim that any goods or services furnished hereunder infringe upon or misappropriate any patent, copyright, trademark, trade secret or other intellectual property or proprietary interest of another; or (vi) a claim of any lien, security interest or other encumbrance made by a third party; (vii) a violation of federal or state law, regulation, statute or ordinance; (viii) failure to comply with the confidentiality obligations set forth herein; or (ix) any loss or damage to persons (including death) or property, to the extent caused by any act or omission of Supplier or, where applicable, by its employees, agents, representatives, subcontractors or invitees.

(b) Without limiting IDT's rights and remedies hereunder, if IDT believes that the goods or services supplied hereunder are likely to be determined to be an infringement or misappropriation of a patent, copyright, trademark, trade secret, or other proprietary right, IDT may require Supplier to (i) replace such goods or services with equivalent functionality, or (ii) modify such goods or services with equivalent functionality to make them non-infringing.

(c) Supplier shall carry and maintain insurance coverage satisfactory to IDT to cover its obligations in this PO, including without limitation, the following insurance with the respective minimum limits per occurrence: Commercial General Liability - \$1,000,000, Workers' Compensation - statutory, Business Automobile Liability - \$1,000,000 and Product Liability Coverages - \$1,000,000. Upon request, Supplier shall submit to IDT certificates of insurance showing proof of such coverages. All such policies shall name IDT as an additional insured.

#### **16. Termination.**

(a) IDT may, at any time, terminate this PO, in whole or in part, without cause, upon written notice to Supplier. Upon any such termination Supplier shall, to the extent specified by IDT, stop all work on this PO, and cause its suppliers and subcontractors to stop work. Charges for any such termination of this PO shall be limited to actual non-recoverable costs incurred by Supplier that Supplier can demonstrate were properly incurred prior to the date of termination. In no event will IDT reimburse Supplier for goods, inventory or services in excess of those required to meet IDT's delivery schedule for binding forecasts. In no event shall such reimbursement include cancellation fees, anticipated profits or revenue, or other economic loss for undelivered goods or unperformed services.

(b) IDT may terminate this PO, in whole or in part, if Supplier: (i) fails to make delivery of the goods or perform the services within the time specified herein; or (ii) fails to replace or correct defective goods or services in accordance with the provisions of this PO; or (iii) fails to perform any other provision of this PO or so fails to make progress as to endanger performance in accordance with its terms; or (iv) becomes insolvent, files or has filed against it a petition in bankruptcy, or makes an assignment for the benefit of creditors.

(c) Any such termination shall not relieve Supplier from any liability hereunder.

**17. Remedies.** IDT's remedies shall be cumulative and remedies herein specified do not exclude any remedies allowed by law or in equity. Waiver of any breach shall not constitute waiver of any other breach of the same or any other provision.

**18. Assignability and Subcontracting.** This PO shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Notwithstanding the foregoing, neither this PO nor any interest therein shall be assigned, delegated or otherwise transferred by the Supplier except upon the prior written consent of IDT, and any assignment or transfer without such consent shall be void and of no effect. Supplier shall not appoint any subcontractor or non-employee to carry out its obligations under this PO without the prior written consent of IDT. In any event, even with IDT consent, Supplier shall remain liable for the performance of all such obligations and shall ensure that any permitted subcontractor or non-employee reads and understands the terms of this PO. IDT may assign its rights or obligations under this PO to any IDT affiliate or successor without Supplier's consent.

**19. Survivorship.** All provisions, representations and warranties contained herein which by their nature are required or intended to be observed or performed after termination of this PO will survive its termination.

**20. Release of Information.** Supplier shall not release any statement, advertisement, information, or publicity referring to IDT, or any IDT affiliate, without IDT's prior written approval.

**21. Limitation of IDT's Liability.** IDT'S MAXIMUM AGGREGATE LIABILITY UNDER THIS PO WILL BE LIMITED TO THE PRICES PAID OR PAYABLE BY IDT UNDER THIS PO. IN NO EVENT SHALL IDT BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR INDIRECT DAMAGES OR LOSSES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF REVENUE, LOST BUSINESS OPPORTUNITY OR COMMERCIAL LOSS), HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, REGARDLESS OF ANY FAILURE OF ESSENTIAL PURPOSE OR ANY REMEDY AVAILABLE UNDER THIS PO. ANY ACTION RESULTING FROM ANY BREACH ON THE PART OF IDT AS TO THE GOODS DELIVERED OR SERVICES PERFORMED HEREUNDER MUST BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

**22. Compliance with Laws.** Supplier warrants that all goods and services will be produced or performed in compliance with all applicable federal, state and local laws, rules, and regulations.

**23. Applicable Law.** THIS PO SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CHOICE OF LAW OF SUCH STATE. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXPRESSLY DISCLAIMED.

**24. Government Contractor.** IDT is a federal contractor to the U.S. Government and is required to flow down to its subcontractors certain regulatory provisions, including, but not limited to, the following which are hereby incorporated by reference and made part of this PO as if fully set forth herein (i) the provisions of the Equal Opportunity Clauses set forth in 41 CFR parts 60-1.4(a), and the employee notice found at 29 CFR Part 471, Appendix A to Subpart A; (ii) applicable requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities; and (iii) any law, order, or regulatory provision issued in addition, supplement or replacement of the foregoing concerning federal contractors. Supplier also agrees to comply with all applicable federal, state, or local statutes, ordinances, and regulations relating to non-discrimination in employment.

**25. Independent Contractor.** Supplier shall perform this Agreement as an independent contractor, and Supplier is not an employee, agent, partner or representative of IDT. Supplier shall conduct its business under its own name as an independent contractor, and is hereby expressly prohibited from holding itself out as an employee, agent, partner or representative of IDT. It is agreed that any person employed by Supplier to perform hereunder shall not be deemed to be an employee of IDT, and Supplier and Supplier's employees, suppliers, subcontractors, agents or representatives shall not be, or represent themselves to be, officers, employees, agents or representatives of IDT and shall not bind, or attempt to bind, IDT to any agreement, liability or obligation of any nature. Supplier agrees to pay, and hereby accepts full and exclusive liability for the payment of, any and all contributions and taxes for Unemployment Compensation or Disability Insurance or Old Age Pension or Annuities, and all similar provisions now or hereafter imposed by any Federal or state governmental authority, which are imposed with respect to or measured by wages, salaries, or other compensation paid by Supplier to persons employed by Supplier; and Supplier further agrees to indemnify and save IDT harmless against any and all such liability or claims thereof.

**26. Debarment Clause.** Supplier certifies that Supplier and its principals, are not debarred, suspended, or proposed for debarment by the Federal Government or any agency thereof. Debarment, suspension, or proposed debarment by the Federal Government or any agency thereof will constitute grounds for automatic termination of this PO by IDT.

**27. Force Majeure.** IDT reserves the right to defer the date of delivery or payment of the goods or services or to terminate this PO or reduce the volume of the goods or services ordered if it is prevented from or delayed in carrying on any part of its business due to circumstances beyond its reasonable control, including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic or pandemic, lock-outs, strikes, or other labour disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

**28. Severability; Entire Agreement.** In the event that any provision of this PO is declared invalid by a proper tribunal or law, the remainder of the provisions shall not be affected thereby, and each term and provision not declared invalid or unenforceable shall be valid and shall be enforced to the fullest extent permitted by law. This PO constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter.