

## CONTRACTING TERMS AND CONDITIONS

When the Purchase Agreement is signed by the Customer, the paragraphs written in the Purchase Agreement and these Contracting Terms and Conditions are expressly the Parties' intent and accurately describe their understanding with respect to the Agreement and together constitute a legally binding and enforceable agreement and commitment on the part of the Customer and Eclipse.

THE PARTIES UNDERSTAND AND EXPRESSLY AGREE THAT THE CONTRACTING TERMS AND CONDITIONS LOCATED BELOW ARE EXPRESSLY AND INTENTIONALLY CONSIDERED PART OF AND INCLUDED WITHIN THE TIME MACHINE PROCEDURE PURCHASE AGREEMENT. FURTHER, THE CUSTOMER UNDERSTANDS AND AGREES THAT SAID CONTRACTING TERMS AND CONDITIONS MAY BE UPDATED AT ANY TIME BY ECLIPSE AND THAT ECLIPSE HAS NO DUTY TO NOTIFY THE CUSTOMER ABOUT ANY CHANGES OR UPDATES MADE TO THE CONTRACTING TERMS AND CONDITIONS. ECLIPSE RECOMMENDS THE CUSTOMER READ ALL OF THE CONTRACTING TERMS AND CONDITIONS AND CONDUCT A HABITUAL REVIEW OF THESE ONLINE CONTRACTING TERMS AND CONDITIONS. FURTHER, THE CUSTOMER IS ENCOURAGED TO PRINT OR DOWNLOAD THE CONTRACTING TERMS AND CONDITIONS FOR FUTURE REFERENCE.

1. License. By purchasing the Time Machine Procedure<sup>SM</sup> (the "TMP"), the Customer receives a one year license to use the TMP material, as defined in the separate TMP License, and according to that TMP License. The Customer understands that License Renewals will be conducted directly with the Time Machine Concept, LLC. In addition to the TMP material, the Customer will receive the Technology and Support described earlier in the "What's Included" section of this Agreement.

2. TMP Products. In addition to marketing and technical support, the TMP consists of the following core products (altogether, the "**Core Products**"): Eclipse Platelet Rich Plasma ("**PRP**"), SkinFinity, Eclipse Roller Tips, Eclipse MicroPen<sup>TM</sup>, and Turbo Safety Needles<sup>TM</sup>. The Customer agrees that once its supply of any of the Core Products is exhausted to the point of reorder, the Customer will only re-order the Core Products from Eclipse; and, any use of a non-Eclipse product in association with the TMP will invalidate the Customer's TMP License and that Customer will not be allowed to continue to sell the TMP, nor will the Customer be entitled to a refund of any monies paid that are associated with the TMP.

3. Prices and Payment. As stated on the first page of this Purchase Agreement, the total one-payment Purchase Price of the TMP is US\$79,900.00. However, Eclipse is offering an Introductory Offer with a ninety calendar day deferral and then payments of

\$1,650/month for the remaining nine months of the License. The Customer understands that its monthly and final payment amount may be different based on its financing method and the results of its credit application (to include, but not limited to the Customer's credit rating). All payments are due on the first calendar day of each month with a three-calendar day grace period. Interest, as liquidated damages and not as a penalty, will be charged at the rate of 2.0% per month (but, not more than the highest rate permitted by applicable law) on accounts more than thirty calendar days past due.

4. Security Agreement. To secure the Purchase Price, the Customer hereby grants Eclipse with a first-priority security interest in the equipment, parts & accessories, and the proceeds thereof, purchased pursuant to this Agreement. The Customer grants Eclipse a limited power of attorney, coupled with an interest, to execute financing statements and other documents or to take any other action in the name of the Customer necessary to perfect the security interest granted herein. The Customer unconditionally agrees to execute such other or additional documents as may be necessary for the enforcement or protection of Eclipse's security interest granted herein.

5. Taxes and Other Charges. The Customer will pay all taxes, fees, duties, levies, or charges imposed by any governmental authority. Applicable sales taxes will be invoiced unless the Customer supplies Eclipse with a valid tax-exempt certificate prior to delivery.

6. Delivery and Claims. For all purposes of this Agreement, title & risk of loss will pass to the Customer, and delivery will be deemed completed, on Eclipse's tender of the TMP and any Core Product to a common carrier. All shipments are fully insured for the benefit, and at the expense, of the Customer. All delivery dates are approximate. Eclipse will deliver in one shipment when possible, but reserves the right to split the shipments into installments, if necessary. All such installments will be separately invoiced and will be payable and due as provided therein. In the event of an unreasonable delay in delivery of the initial TMP order, which is not cured by the delivery within thirty calendar days after receipt of written notice from the Customer, the Customer will be entitled to cancel this Agreement and receive a refund of any monies paid to Eclipse for the TMP. The Customer agrees that the foregoing will be the Customer's sole remedy for unreasonable delay or failure to deliver, and Eclipse will have no other liability whatsoever to the Customer for any such delay or failure.

7. Changes to Products. The Customer understands and agrees that Eclipse may from time-to-time change the design or construction of the TMP and/or its Core Products. In the event the design or construction of the TMP and/or its Core Products are changed prior to delivery, Eclipse will endeavor to notify the Customer, and the Customer will be entitled to accept the changed product or cancel this Agreement, return the TMP and all Core Products, and receive a refund on all Core Products (only – and not the License Fee) returned to Eclipse. The foregoing will be the Customer's sole remedy for any change to the product and model purchased hereunder prior to delivery, and Eclipse will have no other liability whatsoever for any such change.

8. Limited Warranty. Eclipse only warrants those products manufactured by Eclipse to the extent that they will be free from defects in materials and workmanship and will conform in all material respects to Eclipse's technical specifications (expressly excluding consumable or disposable components or accessories, which have the warranties included therewith). The foregoing Limited Warranty will continue for the lesser of the remaining time left in the Customer's TMP License or twelve calendar months from the date of the Customer's receipt of shipment of the TMP or a replacement Core Product. During the warranty period, products will be repaired or replaced at Eclipse's sole option. Such repair or replacement will be Eclipse's sole obligation and the Customer's sole remedy hereunder, and will be conditioned upon Eclipse receiving written notice of such claimed defect within ten calendar days (the "**Inspection Period**") after such defect was known or should have been known by the Customer; and, at Eclipse's sole option, return of such products to Eclipse, F.O.B. Eclipse's facility. The foregoing Limited Warranty will be null & void and of no effect if: (a) anyone other than Eclipse or a person acting on Eclipse's express or written instructions, removes a product casing or makes or attempts to make any modifications, repairs, attachments or additions to the product, or installs or moves a product for which installation is required by Eclipse; (b) the product is not maintained or operated in accordance with Eclipse's instructions, or has been subjected to misuse, abnormal conditions, or negligent handling or operation; or (c) the TMP and/or a Core Product is resold, leased, or rented to or for the use by any person other than the original Customer. Except as may be stated within this Agreement, used and refurbished products do not have any warranties, and products not manufactured by Eclipse only have such warranties (if any) as may be provided by the manufacturer.

9. Exclusions. No representation or warranty will arise from any description of, or claims regarding, the TMP or its effectiveness or ability to achieve any particular clinical result(s), whether written or oral, contained in specifications, samples, bulletins, marketing or promotional materials or similar statements made or furnished to the Customer by any person. Use of the TMP requires the exercise of sound medical judgment, and clinical results may vary based on operator skill and experience, patient suitability, patient response to treatment, and other factors beyond the control of Eclipse. Eclipse make no representation or warranty of revenue or profits from use of the product, and no such representation or warranty shall arise from projections, studies, illustrations, marketing or promotional materials, or other statements or materials made or furnished to the Customer by any person.

10. WARRANTY DISCLAIMER. THE ABOVE LIMITED WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES OF ECLIPSE, EXPRESS OR IMPLIED, WRITTEN OR ORAL; ECLIPSE DISCLAIMS AND EXCLUDES ANY IMPLIED WARRANTY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL ECLIPSE BE LIABLE FOR LOSS OF USE, LOSS OF PROFITS, PUNITIVE DAMAGES, ATTORNEY'S FEES AND EXPENSES, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, OR ANY OTHER DIRECT OR INDIRECT DAMAGES WHATSOEVER.

11. Indemnification. Each Party will indemnify, defend, and hold the other Party (and its affiliates, shareholders, directors, officers, employees, contractors, agents and other representatives (the “**Indemnified Parties**”)) harmless from all third party demands, claims, actions, causes of action, proceedings, suits, assessments, losses, damages, liabilities, settlements, judgments, fines, penalties, interest, costs and expenses (including fees and disbursements of counsel) of every kind (each a “**Claim**,” and, collectively “**Claims**”) (i) based upon personal injury or death or injury to property (other than damage to the Product itself, which is handled in accordance with Paragraph 6) to the extent any of the foregoing is not proximately caused either by the negligent or willful acts or omissions of the Indemnifying Party or its officers, employees, subcontractors or agents and/or (ii) arising from or relating to any actual or alleged infringement or misappropriation of any patent, trademark, mask work, copyright, trade secret or any actual or alleged violation of any other intellectual property rights arising from or in connection with the Eclipse’s sales and marketing processes.

12. Inspection and Returns. The Customer will inspect each shipment and each product, therein, and read the owner’s manual (and all accompanying documentation) on its arrival and will, within the Inspection Period after receipt, give written notice to Eclipse of any error or claim that the product does not conform to the terms of this Agreement. Partial shipment by Eclipse will not constitute a basis for a non-conformity claim by the Customer. The Customer's failure to give such written notice within the Inspection Period will constitute the Customer's unqualified acceptance and waiver of all non-conformity claims, including any right to revoke acceptance. Orders may not be cancelled after delivery, and delivered products may not be returned without Eclipse's prior written consent and at Eclipse’s sole discretion. No acts on the part of Eclipse, including but not limited to, Eclipse’s receipt of a returned product from the Customer, will constitute Eclipse’s approval and acceptance of a returned product or cancelled order, unless Eclipse has provided its prior written consent to the Customer.

13. Proprietary Rights. The purchase and sale of the TMP hereunder to the Customer will in no way be deemed to confer upon the Customer any right, title, interest or license (other than the TMP License as earlier stated within this Agreement) in any intellectual property (including, but not limited to, patents, patent applications, designs, copyrights, trademarks, service marks or trade names) that Eclipse (or a third party) may have covering the TMP. Eclipse retains for itself all proprietary rights in any way pertaining to the TMP, including the sole right to manufacture such products and market the TMP to 3<sup>rd</sup> party physicians. The Customer warrants that it will not, and will not permit or assist any other person or entity to, divulge, disclose, or in any way distribute or make use of such proprietary information, and that it will not, and will not engage, permit or assist any other person or entity to, modify, reverse engineer or manufacture any such products.

14. Financing and Assignment. This Agreement binds the Customer, regardless of any financing arrangements, subrogations or assumptions. The Customer may not assign its

rights or delegate its obligations hereunder except with the prior written consent of Eclipse (which consent may be withheld in its sole discretion).

15. Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the Parties and supersedes all prior or contemporaneous promotional material, contracts, agreements, statements, promises, representations, warranties, purchase orders or quotations, whether written or oral. This Agreement may not be amended, altered, or modified except in writing by Eclipse's General Counsel. No other purported additions, amendments, alterations or modifications by the Customer or any other person, whether oral or written, will be binding on Eclipse, regardless of Eclipse's failure to object or Eclipse's shipment of products.

16. Force Majeure. Neither Party will be liable (i) for any loss or damage of any nature whatsoever, including but not limited to special, incidental, consequential or extra patrimonial damages and/or lost profits, arising from any delay or inability to manufacture, deliver, market, promote and/or sell any Products due to causes beyond its reasonable control ("**Force Majeure**"), including present or future governmental laws, statutes, regulations, orders, ordinances, requests or directives of any public body, acts or omissions of government or military authority, acts of God (including earthquakes and floods), shortages of materials, explosions, embargoes, telecommunications failures, transportation delays, fires, labor disturbances including failure of suppliers, public utilities or common carriers, destruction of or substantial damage to production facilities, riots or wars, or by any other like or different cause beyond its reasonable control which interferes with its production or delivery facilities or any of its sources of supply, provided that, the Parties hereby agree that in the event either Party will be unable to fulfill its obligations under this Agreement for a period greater than sixty calendar days following such Party's notice of inability to perform on account of any such Force Majeure (the "**Force Majeure Notice**"), then either Party will be entitled to terminate this Agreement with a thirty (30) Calendar Days written notice to the other Party.

17. Expenses. Except as otherwise expressly provided in this Agreement, each Party will bear its respective expenses incurred in connection with the preparation, execution, and performance of this Agreement.

18. Waiver. Failure of a Party to enforce any of the provisions of this Agreement will not be construed to be a waiver of the provision. If any provision of this Agreement is held to be invalid for any reason, the remainder of this Agreement will not be affected.

19. Governing Law; Jurisdiction and Venue; Time Limit. This Agreement is governed by the laws of the United States of America and the State of Texas, irrespective of that State's or County's conflict of law principles. Any dispute arising under or out of the Agreement will be brought in the venue and forum of Dallas County, Texas, and will be heard by a single Judge within sixty (60) days from the date of the filing of the initial claim. The Parties expressly waive trial by jury. The Parties hereto hereby agree and consent to the exclusive jurisdiction of the State and federal courts of Dallas County, Texas for any dispute arising hereunder, and the enforcement of any provision of or

judgment(s) relating to this Agreement. The application of the UN Convention on Contracts for the International Sale of Goods (1980) is specifically excluded. THE PARTIES AGREE THAT ANY ACTION HEREUNDER FOR BREACH OF WARRANTY OR CONTRACT MUST BE COMMENCED NOT LATER THAN ONE YEAR FROM THE DATE ON WHICH SUCH ACTION ACCRUES OR BE FOREVER BARRED.

20. Purchaser. Except as otherwise specified herein, the Customer will be and remain a purchaser of the TMP and its Core Products and will not be deemed, expressly or by implication, to be an agent, employee, contractor, partner, joint venturer, or servant of Eclipse for any purpose whatsoever.

21. Severability. If any provision of this Agreement is declared null and void or otherwise ineffective, other than the payment terms hereof, the remaining provisions shall nevertheless continue in full force and effect and be enforceable in accordance with their terms in which case the Parties shall use their best efforts to agree on an equitable provision replacing the provision declared null and void. If any payment provision under this Agreement is declared null and void, this Agreement shall forthwith terminate.

22. Terms of this Agreement are Confidential. Both Parties acknowledge and agree that the terms and conditions of this Agreement are confidential and may not be disclosed to any third party (other than the Parties' respective directors and attorneys) without the prior written consent of the other Party.

23. Headings. The headings of the various sections and paragraphs of this Agreement are provided for convenience of reference only and shall not be deemed to be part of this Agreement nor affect its construction or interpretation.

24. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Last Updated on 25 July 2014