



Terms and Conditions of Sale

These Terms and Conditions of Sale (“**Terms of Sale**”) are entered into by and between you (“**you**” or “**Customer**”) and AlonSource Group, LLC dba SurgiLogix, a Texas limited liability company (“**SurgiLogix**”) and govern your purchase of allograft product(s) (“**Product(s)**”) offered by SurgiLogix via the placement of a direct order submitted to SurgiLogix via email to orders@surgilogix.com.

1. **Terms of Sale Applicability.** By placing an order for Product, Customer agrees to purchase and accept Products in accordance with these Terms of Sale, provided that if you have signed a separate, written agreement with SurgiLogix governing your purchase of Product, that written agreement shall prevail to the extent applicable. In the absence of such an agreement or in the event such agreement is silent as to a particular term or condition, the terms and conditions contained in these Terms of Sale shall control and shall apply. Any provision in a purchase order form that conflicts with or is in addition to the terms of these Terms of Sale shall be ineffective and not binding on SurgiLogix or Customer, unless otherwise agreed to in a written agreement signed by both you and SurgiLogix. If you are placing an order on behalf of another individual or an organization or entity, you represent and warrant that by placing such order, you have the legal authority to bind any such individual, organization or entity to these Terms of Sale for the relevant order. You acknowledge and agree that SurgiLogix reserves the right to amend these Terms of Sale as it sees fit from time to time without advance notice to Customer and the amended Terms of Sale shall supersede prior versions. The current version of the Terms of Sale is available upon request by emailing orders@surgilogix.com.

2. **Customer Accounts/Authorization.** Prior to placing any order for Products, Customer must apply for a SurgiLogix account (“**Account**”) by completing the customer onboarding form(s) provided by SurgiLogix. By placing an order, Customer represents and warrants that all information provided to SurgiLogix, including, but not limited to, through any application for an Account, is current, complete and accurate. Customer agrees that its Account will be self-directed and that Customer is solely responsible for all activities undertaken under its Account.

3. **Ordering Requirements.** All orders for Product (a) must be submitted directly to SurgiLogix via email to orders@surgilogix.com using SurgiLogix’s then-current order form; (b) must comply with SurgiLogix’s then-current lead time, payment and delivery requirements; and (c) incorporate these Terms of Sale. SurgiLogix reserves the right, in its sole discretion, to accept or decline, in whole or in part, any order for Products. SurgiLogix shall not be bound by any order for Product unless and until SurgiLogix has accepted such order in accordance with these Terms of Sale.

4. **Deliveries; Shipment of Product; Title and Risk of Loss.**

a. Delivery Location. Subject to SurgiLogix’s acceptance of an applicable order, SurgiLogix will initiate just-in-time shipment of the ordered Product directly to the Customer delivery address set forth in the applicable order (the “**Delivery Location**”) via a courier designated by SurgiLogix or its logistics provider.

b. Title and Risk of Loss. Title to and risk of loss with respect to Product shall transfer to Customer upon delivery of Product to the Delivery Location (“**Delivery**”).

c. Shipping/Shipment Charges. SurgiLogix or its designee shall ship all orders to Customer FOB Delivery Location, freight prepaid by SurgiLogix. Product is shipped under ambient storage conditions.

d. Delivery of Product. SurgiLogix shall use commercially reasonable efforts to arrange for all approved direct orders of Product placed by the Customer under these Terms of Sale to be delivered to Customer's designated Delivery Location by the delivery date requested in the Customer's order for the Product.

e. Backorders. SurgiLogix will not be obligated to implement a backorder process. SurgiLogix will fulfill approved purchase orders as Product is available but will not place Products on backorder.

5. **Product Returns.** Customer may return Product in accordance with SurgiLogix's then-current Return Goods Policy, a current copy of which can be obtained from SurgiLogix by emailing orders@surgilogix.com. SurgiLogix reserves the right to modify the Return Goods Policy at any time.

6. **Inspection of Product / Shorted Product / Defective Product.** Upon delivery of Product to Customer's designated Delivery Location, Customer shall visually examine the Product for external damage and shall notify SurgiLogix of (i) any damaged Product that is reasonably discoverable upon visual inspection of the Product or (ii) non-delivery of a portion of the shipment. Within two (2) business days after Customer's receipt of damaged Product, Customer shall furnish to SurgiLogix in writing a description of any reasonably discoverable along with a photograph thereof. Upon receipt of such notice and after SurgiLogix's verification of any damage, SurgiLogix shall promptly replace any damaged Product upon the sole discretion of SurgiLogix. Credit will be allowed for shipment shortages reported to SurgiLogix within two (2) business days of receipt, as appropriate under the circumstances and approved by SurgiLogix. Product shipped in error as an overage may be returned if otherwise eligible for full credit under SurgiLogix's then-current Return Goods Policy, when such overage is reported to SurgiLogix within two (2) business days of the invoice date and promptly returned to SurgiLogix within seven (7) business days of receiving an authorization for return. In the absence of a written notice from Customer to SurgiLogix in accordance with the terms of this subsection, a shipment of the Product shall be deemed to have been delivered and accepted by Customer as complete and in satisfactory condition as to damage reasonably discoverable upon visual inspection. Customer shall, at SurgiLogix's expense, follow SurgiLogix's instructions to permit SurgiLogix's inspection of the damaged Product or to facilitate its return to SurgiLogix (or SurgiLogix's third-party designee). Products that have a latent defect that renders the Product damaged and is not apparent upon visual inspection of the consumer packaging of the Product ("**Latent Defect**") at the time it is delivered to the Delivery Location will not be subject to the two (2) business day visual inspection requirements above, and upon discovery, and subject to SurgiLogix's written agreement of the existence of a Latent Defect, Customer will be entitled to a full replacement of the Product with the Latent Defect, as appropriate under the circumstances and within SurgiLogix's sole discretion. SurgiLogix shall make the final determination as to whether the Product has a Latent Defect. If SurgiLogix elects to replace any Product, the replacement Product will be shipped to the Delivery Location. SURGILOGIX'S SOLE LIABILITY FOR ANY NON-DELIVERED OR DEFECTIVE PRODUCT SHALL BE CREDIT OR REPLACEMENT OF THE APPLICABLE PRODUCT AS SPECIFIED IN THIS SECTION.

7. **Product Price.** The price payable by Customer for Product ordered pursuant to these Terms of Sale (the "**Product Price**") shall be SurgiLogix's current list price for the relevant Product, as in effect at the time the relevant order is received by SurgiLogix, or such other pricing as may otherwise be agreed upon in writing by you and SurgiLogix. SurgiLogix's list pricing is subject to change by SurgiLogix without notice. Any disputed Product Price must be identified by Customer to SurgiLogix in writing within ten (10) days of the invoice date. Customer is solely responsible for payment of any applicable tax, duty, custom or other fee imposed by any federal, state or local governmental authority on Product purchases (collectively, "**Taxes**"). To the extent that Customer seeks reimbursement or other payment for Product from any patient or insurer, Customer may not seek reimbursement or payment for any amounts in excess

of the Product Price and Taxes actually paid to SurgiLogix for the relevant Product or as otherwise required by Applicable Law.

8. **Invoicing and Payment Terms.** All payments for purchases of Product shall be due within forty-five (45) days from the date of invoice and payable by Customer via electronic funds transfer, unless otherwise agreed to in writing by SurgiLogix. SurgiLogix shall invoice orders on the date of shipment to you. If the due date (day 45) falls on a non-business day, then the next business day shall be deemed the due date. If payment of undisputed amounts is not received by the due date, SurgiLogix reserves the right to charge Customer interest on the overdue amount at the lower of (i) one and one-half percent (1 ½%) per month, or (ii) the maximum rate permitted by Applicable Law. Such simple interest shall accrue on a daily basis and be compounded monthly from the date on which payment became overdue up to the date on which SurgiLogix receives the outstanding amount. Customer shall reimburse and indemnify SurgiLogix for all reasonable costs incurred by SurgiLogix in collecting any late payments or interest, including attorney's fees, court costs, and collection agency fees.

9. **Compliance Matters.**

a. **Discount Safe Harbor.** To the extent Customer receives a discount, rebate, or other price concession from SurgiLogix as a result of a purchase that is subject to these Terms of Sale, Customer agrees that it shall fully and accurately report any such discount, rebate or price concession to the extent required under Applicable Laws. Consistent with SurgiLogix's understanding of the requirements that apply to purchases of discounted products under 42 U.S.C. § 1320a-7b(b)(3)(A) or 42 C.F.R. § 1001.952(h), listing of these discounted Product Prices in the Product invoice constitutes SurgiLogix's notice to Customer of the amount and value of all discounts given on Products. Any charged prices less than the SurgiLogix's list prices are "discounts" within the meaning of any safe harbors or other applicable protections regarding discounted product pricing (including the statute and regulation cited above), whether or not an invoice includes language indicating that a price is "discounted." Accordingly, as applicable and required by the discount safe harbor regulations at 42 CFR §1001.952(h), Customer shall fully and accurately report in applicable cost reports and provide information upon request to the Secretary of the Department of Health and Human Services, a state agency, Medicare, Medicaid and other federal health care programs on all discounts and price reductions for Products purchases that are subject to these Terms of Sale, including, without limitation, disclosing and accurately reflecting where appropriate, and as appropriate, the applicable reimbursement methodology. Customer agrees that it is solely responsible for any such reporting, allocation(s) and/or classification(s).

b. **Product Classification.** Customer acknowledges and agrees that the Products are marketed pursuant to the U.S. Food and Drug Administration's ("FDA") criteria for Human Cell, Tissue and Cellular and Tissue-Based Products ("HCT/Ps") and meet FDA's criteria for regulation under section 361 of the Public Health Service Act ("PHSA") and for exemption from FDA pre-market review, clearance, and approval requirements. Customer will not make any representation about any Product, express or implied, that is inconsistent with SurgiLogix's objective intent that the Product is strictly intended for homologous use only (i.e., repair, reconstruction, replacement, or supplementation of a recipient's cells or tissues with an HCT/P that performs the same basic function or functions in the recipient as in the donor) pursuant to 21 C.F.R. § 1271.10(a)(2) or any successor regulation, and with any applicable FDA guidance interpreting that regulatory provision.

c. **Regulation of Sale of Human Tissue.** SurgiLogix and Customer agree and understand that the Products are human tissue products. According to the U.S. National Organ Transplant Act ("NOTA") (42 U.S.C. § 274e, as amended), human tissue cannot be sold and is not the property of any entity. The services provided by a tissue establishment and third parties include

without limitation recovery, processing, storage, distribution, marketing, and processing of orders for human tissue to a recipient in a form that is suitable for clinical use and that is helpful in restoring the recipient's form or function. Passing the costs of such services on to recipients is not considered the sale of human tissue as defined under NOTA. As such, SurgiLogix and Customer agree and understand that references to the sale and/or purchase of Products throughout these Terms of Sale and any related order do not refer to the sale of human tissue, but refer to the payment of processing fees for the Products and the distribution of the Products.

d. **General.** Customer shall at all times strictly comply with, and ensure that the Products are stored, handled, and used in accordance with, all applicable federal, state and local laws and regulations, including, but not limited to, all Healthcare Laws (collectively, "**Applicable Laws**"). For purposes of these Terms of Sale, "**Healthcare Laws**" means the federal Stark Law, the federal False Claims Act, the federal Anti-Kickback Statute, the Health Insurance Portability and Accountability Act (as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 ("**HITECH**")), the Federal Food, Drug, and Cosmetic Act ("**FDCA**"), the Public Health Services Act ("**PHSA**"), the federal civil monetary penalties statute, state practice of medicine laws, together with state laws similar to any of the foregoing, any regulations or guidance promulgated under such federal or state laws (including without limitation applicable regulations and guidelines established by the FDA), and any other health regulatory laws applicable to SurgiLogix or Customer. Customer is solely responsible for compliance of its employees, agents, and representatives (collectively, "**Representatives**") with all Applicable Laws. Without limiting the foregoing, if applicable: (i) Customer shall establish and maintain a quality management system under which Customer conducts any Quality System Regulation ("**QSR**") related activities in compliance with FDA's requirements; and (ii) Customer shall ensure that it has established and maintained current Good Tissue Practices in compliance with all applicable FDA requirements. Customer acknowledges and agrees that all Products must be recommended and used only on the basis of quality, service, price, and other legitimate clinical attributes, and that Customer is prohibited from providing any payment or any other thing of value to any person or entity as an inducement to use or recommend Products. To the extent applicable, Customer shall protect and safeguard all patient information, including Protected Health Information (as defined in 45 C.F.R. § 160.103) ("**PHI**"), in accordance with applicable Healthcare Laws. Nothing in these Terms of Sale shall be interpreted to require either SurgiLogix or Customer to take any action that would violate any Applicable Laws.

e. **AATB Guidance and IFU.** Customer shall at all times strictly comply with, and shall ensure that the Products are stored, handled, and used in accordance with, American Association of Tissue Banks® ("**AATB**") Guidance, the IFU, and as otherwise specified by SurgiLogix to Customer in writing. Without limiting the foregoing, Customer shall not utilize the AATB name or trademark unless and until such time as it becomes an AATB-accredited tissue bank. Customer acknowledges that AATB Guidance requires the establishment of a protocol for post-sale data collection with respect to tissue products. Customer will receive a tissue trace card alongside each unit of Product and shall complete and return such tissue trace card to SurgiLogix within two (2) business days following the use, application, or other final disposition of the Product.

f. **Regulatory Cooperation.** Customer will, at its own cost, reasonably cooperate with SurgiLogix with respect to any action, warning, inspection or other notice or communication from any regulatory or governmental authority relating to the Products, including without limitation by promptly providing to SurgiLogix any data or information relating to the purchase, handling, storage or use of the Products that may be useful in preparing any response thereto. If Customer receives any notice of inspection or is subjected to a regulatory authority inspection relating to the

Products, Customer shall keep SurgiLogix informed of any written or verbal observations, or any other actions, by such regulatory authority that could reasonably be expected to impact SurgiLogix.

g. **Physician and Patient Notifications; Recalls.** If requested by SurgiLogix or required as a result of a request, directive or order from a governmental or regulatory authority, Customer will assist SurgiLogix or its designee in carrying out (i) physician and patient notifications and (ii) Product recalls or market withdrawals (“**Recalls**”), in each case with respect to the Products. Customer will comply with SurgiLogix’s written instructions concerning communications with the public and other procedures to be followed in connection with any such notification or Recall and will keep and maintain business records and data sufficient to administer a Recall in accordance with Applicable Laws, and Customer shall make such information available to SurgiLogix upon SurgiLogix’s reasonable request.

h. **Product Complaint, Adverse Reaction and Adverse Reaction Reporting.** Customer shall (i) notify SurgiLogix within 24 hours of learning of any Product complaint or any unintended response or adverse reaction relating or possibly relating to Product by email to quality@surgilogix.com and (ii) promptly provide such assistance and information as SurgiLogix or its designee reasonably requests to investigate and/or fulfill adverse reaction reporting obligations for Product.

i. **Suspension.** If SurgiLogix requests that Customer suspend the recommendation, use or application of any Product, Customer shall promptly suspend such recommendation, use or application until SurgiLogix provides written notice that the suspension may be lifted.

10. **Customer Obligations.**

a. Customer will ensure that (i) all Products are stored solely at registered tissue banks accredited by the American Association of Tissue Banks® (“**AATB**”) and (ii) all Product is all times stored, handled and used in strict compliance with the SurgiLogix-provided instructions for use (“**IFU**”), Applicable Laws, and the Standards for Tissue Banking and all other guidance issued by the AATB (collectively, “**AATB Guidance**”). Customer shall review the IFU and all other package inserts and labels provided alongside the Product immediately upon receipt of the Product.

b. Customer agrees not to (i) use Products outside of the United States (including its territories and possessions) unless otherwise agreed by SurgiLogix in writing, (ii) use or recommend the Products for any purpose except for individual use or application, (iii) resell or redistribute any Product, (iv) modify, repackage, adulterate, misbrand, alter, or add or remove labels to or from any Product, or otherwise make any changes whatsoever to the Products or to SurgiLogix’s packaging, package inserts, trademarks, or labels, or (v) engage in deceptive, misleading or unethical practices that are or might be detrimental to SurgiLogix, the Products, or SurgiLogix’s affiliates, employees, agents, or representatives. In the event Customer or its Representative has not handled, stored, or maintained Product in accordance with these Terms of Sale, Customer shall immediately notify SurgiLogix of such failure and SurgiLogix may advise Customer regarding required corrective actions.

c. Customer will provide prompt written notice to SurgiLogix if Customer becomes aware of any entity or person offering, selling or purchasing diverted Products.

11. **Promotional Information; Communications.** Subject to these Terms of Sale, Customer may provide patients and healthcare providers within its organization with educational information

concerning the Products, but only to the extent such educational information (i) is consistent with the Product labeling and documentation, including without limitation the IFU, as provided by SurgiLogix or (ii) has been provided by SurgiLogix for dissemination to such patients and healthcare providers. Customer expressly agrees that it shall not provide, and is prohibited from providing, any medical advice, training or instruction to patients or healthcare providers, or to any third party, regarding the Products, except to the extent that Customer (x) is a healthcare provider that is fully qualified, licensed and registered under Applicable Laws to provide medical advice regarding the use of allograft products (including without limitation the Products) to the relevant patient, healthcare provider or other third party (each, a “**Qualified Clinician**”) and (y) provides any such advice, training and instruction in its independent capacity as a Qualified Clinician. Customer shall ensure that all communications to patients, healthcare providers, and other third parties are true, accurate, complete, and consistent with all Product labeling and documentation provided in writing by SurgiLogix.

12. **Customer Warranties.** Customer represents and warrants that (a) neither it nor any of its Representatives has received any notice or communication from the FDA or other federal, state, or local regulatory or law enforcement agency requiring, recommending, or threatening to initiate any action pertaining to the activities contemplated under these Terms of Sale; (b) Customer has obtained, and will maintain until such time as all Product ordered under these Terms of Sale has been used, applied or otherwise finally disposed of, all governmental approvals, licenses or permits required for the purchase, handling, storage, use and application of the Products at its own cost, and, without limiting the foregoing, shall comply with all federal, state and local laws, regulations and rulings having jurisdiction over Customer’s business, including without limitation Healthcare Laws, with respect to its activities concerning the Products; and (c) of Customer’s purchases from SurgiLogix are for Customer’s “own use,” as such term is defined in judicial or legislative interpretation

13. **Disclaimer of Product Warranty.**

a. Customer acknowledges and agrees that the literature packaged with the Product contains all warranties, representations, and disclosures concerning the Product and its use (the warranties contained therein, collectively, the “**Customer Warranty**”). Customer has no authority, express or implied, to make any warranties, representations, or disclosures, nor to authorize any of its Representatives to make any warranties, representations, or disclosures, beyond those provided by SurgiLogix within the Product packaging. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE PRODUCT IS NOT SUBJECT TO APPROVAL BY THE FDA OR OTHER REGULATORY AUTHORITIES. SURGILOGIX’S SOLE LIABILITY FOR BREACH OF ANY WARRANTY RELATING TO THE PRODUCT SHALL BE, AT SURGILOGIX’S SOLE DISCRETION, CREDIT FOR OR REPLACEMENT OF THE NONCONFORMING PRODUCT.

b. EXCEPT FOR THE CUSTOMER WARRANTY, SURGILOGIX DOES NOT PROVIDE ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE PRODUCTS, THE USE THEREOF, THESE TERMS OF SALE OR THE TRANSACTIONS CONTEMPLATED HEREBY, AND SURGILOGIX EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; WARRANTIES OF SAFETY, ACCURACY, OR NON-INFRINGEMENT; AND WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, SURGILOGIX DOES NOT WARRANT THAT ANY PRODUCT WOULD BE OR COULD BE CLEARED, APPROVED OR LICENSED FOR ANY USE, CLINICAL OR OTHERWISE, OR THAT ANY PRODUCT IS COMPLIANT WITH ANY LAWS OR REGULATORY

REQUIREMENTS THAT WOULD APPLY IN THE EVENT THE PRODUCT IS REGULATED BY THE FDA OR OTHER REGULATORY AUTHORITY.

c. **Indemnification.** Customer shall indemnify and hold harmless SurgiLogix, its affiliates and their respective officers, members, managers, employees, agents, and subcontractors from and against any and all loss, cost, damage, expense, or other liability, including, without limitation, reasonable costs and attorney fees (“**Costs**”) incurred in connection with any and all third party claims, suits, investigations or enforcement actions (“**Claims**”) arising out of Customer’s (i) negligence, gross negligence, recklessness or willful misconduct, (ii) breach of these Terms of Sale, or (iii) violation of Applicable Laws; provided that Customer shall have no liability to SurgiLogix for Costs to the extent such Costs are attributable to SurgiLogix.

14. **LIMITATION OF LIABILITY.** EXCEPT TO THE EXTENT EXPRESLLY PROVIDED IN THESE TERMS OF SALE AND TO THE EXTENT REQUIRED BY APPLICABLE LAW, SURGILOGIX HAS NO LIABILITY TO CUSTOMER OR ITS AFFILIATES, EMPLOYEES, AGENTS AND REPRESENTATIVES FOR ANY LOSS OR DAMAGE (INCLUDING ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), LOST PROFITS OR SAVINGS, PUNITIVE DAMAGES, INJURY TO REPUTATION, LOSS OF CUSTOMERS OR BUSINESS, OR OTHERWISE), ARISING OUT OF CUSTOMER’S PURCHASE OF THE PRODUCT UNDER THIS AGREEMENT OR SURGILOGIX’S FAILURE TO DELIVER ORDERED PRODUCT. IN NO EVENT WILL SURGILOGIX AND ITS AFFILIATES, EMPLOYEES, AGENTS AND REPRESENTATIVES’ COLLECTIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREUNDER EXCEED THE AGGREGATE AMOUNTS PAID BY CUSTOMER TO SURGILOGIX IN RELATION TO THE RELEVANT PRODUCT DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING DATE OF THE APPLICABLE CLAIM. CUSTOMER ACKNOWLEDGES THAT THE ALLOCATION OF RISKS AND BENEFITS UNDER THIS AGREEMENT IS BASED ON, AND THE PRICES PAYABLE FOR PRODUCT UNDER THIS AGREEMENT WOULD BE HIGHER IN THE ABSENCE OF, THE LIMITATIONS DESCRIBED ABOVE.

15. **Entire Agreement.** These Terms of Sale, together with any order placed by Customer and accepted by SurgiLogix, constitute the entire agreement of Customer and SurgiLogix with respect to its subject matter, and supersedes all previous written or oral representations, agreements and understandings between Customer and SurgiLogix with respect to the subject matter hereof.

16. **Records and Audit.** Customer shall maintain complete and accurate books and records relating to these Terms of Sale, including without limitation records relating to purchases made hereunder and the use and application of the Products purchased hereunder in accordance with Applicable Laws and AATB Guidance. For ten (10) years after the purchase of Product, or for such longer period as is required under Applicable Laws or AATB Guidance, on reasonable prior written notice, SurgiLogix may, at its own expense, inspect and audit Customer’s books, records, and other documents for purposes of verifying compliance with Customer’s obligations under these Terms of Sale or satisfying SurgiLogix’s obligations under Applicable Laws and AATB Guidance relating to the Products. Customer will cooperate with SurgiLogix in the conduct of any audit performed pursuant to this Section 16.

17. **Publicity.** Except as otherwise expressly provided in these Terms of Sale, Customer may not use SurgiLogix’s name in any advertising or other form of publicity without the prior written permission of SurgiLogix whose name is to be used.

18. **Insurance.** Customer is responsible for maintaining, at its own expense, insurance or self-insured coverage, necessary to cover its liabilities and contractual obligations in connection with these Terms of Sale. The coverages to be maintained shall be consistent with industry standards. Failure of Customer to have insurance coverage, inability to obtain insurance coverage, or any inadequacy of insurance coverage of Customer shall not relieve or decrease Customer's liabilities under this Agreement.

19. **Modification.** Except as expressly set forth in these Terms of Sale, no extension, modification or supplement to these Terms of Sale will be effective unless made in writing and signed by a duly authorized representative of SurgiLogix and of Customer.

20. **Notices.** All notices must be written and sent to:

If to SurgiLogix:

AlonSource Group, LLC dba SurgiLogix
16107 University Oak, Ste 102
San Antonio, TX 78249

If to Customer, to the address set forth in the relevant order; provided that each of SurgiLogix and Customer may update their addresses by written notice to the other party in accordance with this Section.

All notices must be given: (a) by personal delivery; (b) by prepaid certified or registered mail, return receipt requested; or (c) by prepaid recognized next business day delivery service. Notices will be effective upon receipt during normal business hours of the recipient, or if received after such normal business hours upon the following business day.

21. **Force Majeure.** Notwithstanding anything to the contrary herein, SurgiLogix will not be liable for delay or failure of performance occasioned by causes beyond its control, including, but not limited to, acts of God or the public enemy, civil unrest, riots, acts of terrorism, declared or undeclared wars, fires, floods, epidemic or pandemic, unusually severe weather, earthquakes, acts of the Federal, state or local government (including any court decision), volcanoes, strikes, labor disputes, embargoes, or the failure or inability of carriers, suppliers, delivery services, or telecommunications providers to provide services necessary to enable SurgiLogix to perform its obligations hereunder.

22. **Dispute Resolution.** In the event that SurgiLogix and Customer, working in good faith, are unable to resolve any dispute, controversy, or claim arising out of or relating to this contract or the breach, termination, or invalidity thereof (each, a "**Dispute**") within thirty (30) days from service of written notice of such Dispute by either party to the other party, or at such earlier time as is mutually agreed by the parties, such Dispute shall then be decided by a confidential, binding, non-appealable arbitration in Bexar County, Texas administered by the American Arbitration Association (the "**AAA**") under the Commercial Arbitration Rules then in effect (the "**Rules**") of the AAA. The arbitration will be conducted in English. Such arbitration shall be before a single arbitrator who shall be jointly selected by Customer and SurgiLogix. If the parties cannot agree upon an arbitrator within thirty days following the initiation of arbitration then the appointment of the arbitrator shall be made by the AAA in accordance with the Rules, except as they may be modified by the mutual written agreement of the parties. The award of any arbitration shall be final, conclusive and binding on the parties, and judgment on the award may be entered in any court of competent jurisdiction. The arbitrator shall be limited, in granting any relief, to comply with the provisions of these Terms of Sale, including without limitation with respect to the award of damages or the limitations on them. During the arbitration, either party may seek interim measures of protection

concerning any subject matter of the dispute subject to arbitration, including but not limited to interim injunctive relief, in a court of competent jurisdiction located in the Bexar County, Texas. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the application, interpretation, or enforceability of this paragraph, including without limitation any contention that all or part of this paragraph is invalid or unenforceable, shall be governed by the Federal Arbitration Act and is exclusively delegated to, and shall be resolved by, the arbitrator.

23. **Miscellaneous.** Subject to Section 22, these Terms of Sale will be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of law principles for both substantive and procedural issues. Customer may not assign or delegate any of its rights or obligations hereunder without SurgiLogix's prior written consent. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void. SurgiLogix may assign these Terms of Sale, in whole or in part, upon written notice to Customer. No waiver by SurgiLogix of any breach by Customer of a provision of these Terms of Sale will be deemed, or will constitute, a waiver of any other provision, even if similar, nor will any waiver constitute a continuing waiver. No waiver by SurgiLogix will be binding unless executed in writing and signed by an authorized representative of SurgiLogix. Customer agrees that all SurgiLogix ordering information, these Terms of Sale, and the purchase terms are confidential and may not be disclosed to third parties without SurgiLogix's written consent. If any portion of these Terms of Sale is held to be illegal, void or unenforceable, the remaining portions of the Terms of Sale shall remain in full force and effect. Except as otherwise expressly set forth herein, none of the provisions of these Terms of Sale shall be for the benefit of or enforceable by any third party, including without limitation any creditor of either party. No such third party shall obtain any right under any provision of these Terms of Sale or shall by reasons of any such provision make any claim in respect of any debt, liability or obligation (or otherwise) against either party.

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