

## STANDARD TERMS & CONDITIONS OF SALE

for Sientra Breast Implant, Tissue Expander, and BIOCORNEUM® products

### OVERVIEW

By purchasing our products, you (“You,” “Your,” or the “Purchaser”) expressly acknowledge that You have read, understand, and agree to be bound by the following Terms and Conditions of Sale for Sientra Breast Implant, Tissue Expander, and BIOCORNEUM products (the “Terms & Conditions”). Please read these Terms & Conditions carefully before purchasing our products. If You do not agree to all the Terms & Conditions, then You may not purchase our products. Your purchase of our products constitutes Your acceptance of these Terms & Conditions.

You can review the most current version of the Terms & Conditions at any time on this page at [sientra.com/resources](https://sientra.com/resources). Sientra reserves the right to update, change or replace any part of these Terms & Conditions by posting updates and/or changes to this page. It is Your responsibility to check this page periodically for changes. Your continued purchase of products from Sientra following the posting of any changes constitutes Your acceptance of those changes.

### PHYSICIAN CREDENTIALS

**Sientra breast implants and tissue expanders** are prescription medical devices and U.S. federal law restricts the sale of these Sientra products to sale by or on the order of a physician. Sientra sells these products only to licensed physicians who are Board-certified in the specialty of plastic or reconstructive surgery, or who are otherwise Board-admissible in the specialty of plastic or reconstructive surgery (e.g. by virtue of having completed the training and other prerequisites required for permission to take Board examinations). By purchasing these products from Sientra, You represent that You are duly licensed to use the Sientra products pursuant to U.S. law, and are Board-certified or otherwise Board-admissible in the specialty of plastic or reconstructive surgery, or are purchasing them on order of a person who holds such license and qualifications. Sientra reserves the right to verify the credentials of all persons purchasing breast implants or tissue expanders, and to refuse sales to any person who does not meet these requirements.

**Sientra BIOCORNEUM products** are available for sale through licensed medical practitioners only, and may not be sold through unauthorized third-party channels or resellers, including third-party online retail sites. Sientra reserves the right to refuse sales to those who do not meet these requirements, or who otherwise engage in unauthorized sales through third-party channels or resellers.

### PATIENT DECISION CHECKLIST

You understand and acknowledge that the sale and distribution of **Sientra breast implants** is restricted to users and/or user facilities that provide information to patients about the risks and benefits of the device prior to use in the form and manner specified in Sientra’s approved product labelling. The most recent version of Sientra’s approved product labelling is available at <https://sientra.com/for-us-surgeons/resources/>. By purchasing Sientra breast implants, You represent and warrant that You are familiar with Sientra’s approved product labelling, including the Patient Decision Checklist attached hereto as Appendix A, and that You shall ensure that:

- (a) the Patient Decision Checklist is provided to prospective patients by the implanting physician prior to their surgery;
- (b) the Patient Decision Checklist is reviewed by the implanting physician with the patient to assure that the patient understands the risks, benefits, and other information associated with the implantation of Sientra breast implants;
- (c) the patient is provided with an opportunity to initial and sign the designated portions of the Patient Decision Checklist to document that the patient has been informed of the risks, benefits and other information associated with the implantation of Sientra breast implants and has determined to proceed with the implantation of Sientra breast implants; and
- (d) the implanting physician signs the designated portion of the Patient Decision Checklist to document that the physician has discussed the risks and benefits of Sientra breast implants as well as the risks and benefits of available alternatives and has addressed all questions from the patients.

You understand and acknowledge that breach of the above representations and warranties may result in a suspension or termination of Your ability to purchase Sientra breast implants from Sientra.

## **SINGLE USE ONLY, NO RESALE**

**Sientra breast implants and tissue expanders** are single-use products only. Purchaser shall ensure that units of breast implants and tissue expanders are used once and only once in delivering patient care, and Sientra conveys no rights or licenses to Purchaser other than the right to use those units once and once only. No right or license is granted to Purchaser or any other person to reprocess, remanufacture, reconstruct, or reverse engineer any Sientra breast implant or tissue expander product. Sientra breast implants and tissue expanders are sold for use by physicians only in delivering patient care, and no right or license is granted to Purchaser to resell, transfer, assign or otherwise convey such products for any purpose other than delivering patient care.

## **SALES ORDERS**

Purchaser may order Sientra breast implants, tissue expanders and BIOCORNEUM products by placing an order for them with Sientra who will generate a written order form (the "Invoice") confirming the order. Orders may be placed by written, telephonic or electronic means. Purchaser hereby expressly authorizes their Sientra Plastic Surgery Consultant, Reconstruction Clinical Manager or Multi-Specialty Consultant to place orders on their behalf. By placing an order with Sientra, Purchaser expressly agrees to be bound by Sientra's then-existing standard terms and conditions of sale which are expressly incorporated by reference into each Invoice. In the event of a conflict between the current terms and conditions of sale and any prior terms and conditions of sale, the subsequent terms and conditions shall govern. Sientra shall make any updated terms and conditions of sale available to Purchaser at [sientra.com/resources](http://sientra.com/resources) or shall provide them on written request of Purchaser.

## **PAYMENT TERMS, FINANCIAL RESPONSIBILITY & LATE CHARGES**

Purchaser must pay Sientra the total purchase price in accordance with the payment terms set forth on the Invoice. Time for payment is of the essence. Purchaser shall make payment to Sientra in full and clear funds in the manner specified on the Invoice. Payment may be made by check, ACH, wire transfer or credit card. Where payment is by credit card, Purchaser hereby expressly authorizes Sientra to charge Purchaser's credit card on file for the total amount due in accordance with the payments terms set forth on the relevant Invoice. If payment is not made by the date set forth on the Invoice, or Purchaser otherwise becomes delinquent in the payment of any sum due Sientra (howsoever arising), then, in addition to any other remedy which it may be entitled to at law or equity, Sientra may cancel or suspend any or all sales orders of Purchaser and/or refuse to make future shipments to Purchaser, and may charge the purchaser interest at 1.5% per month (or the maximum rate allowed by law) until payment in full is made. Sientra may apply any outstanding credits to the oldest open invoice(s) if credit has not been otherwise used within forty-five (45) days.

## **SALES TAX**

Items purchased may be subject to sales/use tax in accordance with the state tax laws in the state to which the order is shipped. If the Purchaser is a tax-exempt entity, or is purchasing items pursuant to an exemption available in its home state, or is purchasing items for resale, then the purchase may be eligible for tax-exempt treatment. Sientra reserves the right to request additional information for purposes of complying with state sales tax laws.

## **SHIPPING**

Sientra offers free **2 day** shipping on all domestic orders. Additional fees apply for expedited shipping.

Sientra assumes no liability for additional cost or damages resulting from late deliveries. All shipments are FOB Freight Prepaid at Sientra's facility, at which point title and all risk of loss will pass to Purchaser.

## **PRODUCT RETURNS**

**For Sientra breast implants and tissue expanders**, Sientra provides pre-paid ground return shipping on all returns. Except as provided herein, full credit will be issued on those products returned within 6 months after the date the products were shipped to the Purchaser. No credit will be issued on products returned later than 6 months after the date the products were shipped to the Purchaser. No credit will be issued on products that have been opened, are expired, have been damaged, or which were involved in a sale out of bankruptcy or otherwise obtained from a person other than the Purchaser identified on the Invoice.

**For BIOCORNEUM products**, all sales are final. Sientra guarantees product quality and will replace any defective product, provided the product has not been opened, expired, or damaged. Sientra shall not be responsible for BIOCORNEUM products sold through unauthorized third-party channels or resellers. Offering to resell or reselling, or offering to redistribute or redistributing, BIOCORNEUM products through unauthorized third-party channels or resellers, including third-party online retail sites, is strictly prohibited and will immediately void any product warranties and any licenses (express or implied) to Sientra's intellectual property rights. Sientra will not guarantee or replace any BIOCORNEUM product sold through unauthorized third-party channels or resellers. Sientra reserves

the right to cancel any orders that it determines in its sole discretion are made for commercial resale or redistribution purposes through unauthorized third-party channels or resellers.

## **EXPLANTED DEVICE RETURNS & REPORTING**

Explanted medical devices must be returned to Sientra and the reason for explantation must be provided together with appropriate documentation. All explanted medical devices must be returned in a Sientra Explant Return Kit. Please contact the Sientra Customer Experience Team at 888.708.0808 for a Sientra Explant Return Kit and instructions.

## **WARRANTY & DEVICE TRACKING**

**Sientra breast implants** are subject to the Food and Drug Administration's device tracking requirements. By purchasing Sientra breast implants, You agree to comply with the device tracking requirements and complete all device tracking information for implanted Sientra breast implants. Device tracking information may be provided by completing and returning Sientra's device tracking forms, participation in the National Breast Implant Registry (NBIR), or completion of device tracking information in Aesthetic One.

**For Sientra breast implants only**, Sientra provides the Sientra Platinum20™ Product Replacement and Limited Warranty Program to all patients implanted on or after May 1, 2018. The full Terms & Conditions for this program can be found at [sientra.com/resources](http://sientra.com/resources). For patients implanted prior to May 1, 2018, please consult the applicable documentation available at [sientra.com/resources](http://sientra.com/resources).

EXCEPT AS PROVIDED HEREIN, OR OTHERWISE SET FORTH ON THE PRODUCT PACKAGING FOR THE SIENTRA BREAST IMPLANT AND TISSUE EXPANDER OR BIOCORNEUM PRODUCTS, NO OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, IS PROVIDED BY SIENTRA AND SIENTRA DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY NATURE, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY REPRESENTATIONS OR WARRANTIES OF SATISFACTORY QUALITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE (WHETHER OR NOT SIENTRA KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE AWARE OF ANY SUCH PURPOSE).

## **NET PRICE DISCLOSURE**

Sientra advises all Purchasers who are paid or reimbursed by the U.S. government to submit to the U.S. Government price information that is net of all discounts.

## **CHOICE OF LAW**

The Terms & Conditions of all sales are governed by California law. Any and all claims, controversies, and causes of action arising out of or relating to this Agreement and the relationship created thereby, whether sounding in contract, tort, statute or otherwise, shall be governed by the laws of the State of California, including its statutes of limitations, without giving effect to any conflict-of-laws or other rule that would result in the application of the laws of any other jurisdiction.

## **DISPUTE RESOLUTION**

In the event of a dispute arising out of or relating to any Invoice or these Terms and Conditions, Sientra and Purchaser shall resolve such dispute by final and binding arbitration in accordance with the American Arbitration Association's ("AAA") Commercial Arbitration Rules then in effect. The arbitration shall be held in Los Angeles County, CA and the governing law of the arbitration shall be California law as provided herein. The arbitration shall be held before a single arbitrator. Unless Sientra and Purchaser agree otherwise, they shall be limited in their discovery to directly relevant documents. The award of the arbitrator shall be final and binding upon Sientra and Purchaser, and shall be the sole and exclusive remedy regarding any claims, counterclaims, issues, or requests for declaratory, accounting, or other relief presented to the arbitrator. THE ARBITRATOR SHALL NOT AWARD PUNITIVE, COVER, EXEMPLARY, MULTIPLIED, INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR LOST PROFITS DAMAGES OR ATTORNEYS' FEES. SIENTRA AND PURCHASER EACH IRREVOCABLY WAIVE THEIR RIGHTS TO TRIAL OF ANY ISSUE BY JURY. The costs of arbitration shall be apportioned by the arbitrator in the award. The arbitrator shall have the power to grant any remedy or relief that the arbitrator deems appropriate, including specific performance in the event of noncompliance of its orders or awards as well as interim, conservatory, or provisional measures, and any such measures may be enforced in a court of competent jurisdiction. Sientra and Purchaser shall submit to any court of competent jurisdiction for purposes of enforcement of any award, order, or judgment in any arbitration brought under this section. By agreeing to arbitration, neither Sientra or Purchaser intend to deprive any court of its jurisdiction to issue an injunction, attachment or other interim measure in aid of arbitration prior to the appointment of the arbitrator.