

# AUTHORIZED ANCILLARY PRODUCTS PROVIDER AGREEMENT

## BioTE® Medical, LLC

This BioTE® Medical, LLC Authorized Ancillary Products Provider Agreement (the “Provider Agreement”) applies to all authorized providers (“Providers”), acting in accordance with the terms of this Provider Agreement, of BioTE® Medical, LLC’s (“BioTE”) products, including nutraceutical, cosmeceutical, and peptide based products, as specifically identified on the attached Schedule A, which is subject to change in BioTE’s sole discretion (the “Products”). By purchasing Products from BioTE or its authorized distributors (collectively “BioTE Distributor”) or by utilizing BioTE’s online platform to select and acquire Products for fulfillment via an FDA registered 503B outsourcing facility (the “BioTE Platform”), you, as the Provider, agree to adhere to the following terms and conditions.

**1. Manner of Sale.** Provider is authorized to offer Products purchased from a BioTE Distributor for retail sale in accordance with the terms herein. Sales in violation of these terms are strictly prohibited and may result in BioTE’s immediate revocation of Provider’s status as an authorized provider of BioTE Products, in addition to other remedies. Products sold to unauthorized persons or through unauthorized channels, including unauthorized Internet sites, are grounds for immediate termination of the Provider Agreement by BioTE and Provider shall not be eligible for certain BioTE promotions, services, and/or benefits, including, unless prohibited by law, coverage under any warranties applicable to the Products.

**1.1** Provider shall sell Products solely to end users of the Products. Provider shall not sell to anyone a quantity of the Products greater than that generally purchased by an individual for personal use.

**1.2** Provider shall not sell, ship, invoice, or promote the Products outside the United States without obtaining BioTE’s prior written consent.

**1.3** Provider shall not sell or transfer any of the Products to any person or entity for re-sale without the prior written consent of BioTE. This includes sales to business-to-business (B2B) accounts, wholesalers, freight forwarders/drop shippers for other resellers, or any other person or entity Provider knows or has reason to know intends to re-sell the Products.

**1.4** For product ordering, Provider shall utilize the BioTE Platform, located at [www.biotemethod.com](http://www.biotemethod.com) (or such other website as identified by BioTE), to facilitate the acquisition of one or more Products, which shall then be fulfilled by the manufacturer or any other approved entity.

**1.5** Provider is authorized to offer Products for sale and fulfill sales of Products through its own independent online website.

**1.6** Provider shall not offer Products for sale or fulfill sales of Products through any third party marketplace sites, including Amazon, eBay, Walmart Marketplace, or through drop-ship accounts (e.g. Rakuten, Newegg, Overstock), without the prior written consent of BioTE via execution by BioTE of an Authorized Online Seller Agreement. Arterosil and Prolon products are not allowed to be sold on any third party marketplace site. Any Provider that violates these prohibitions regarding online sales of Products is subject to immediate and permanent suspension of purchasing privileges and/or termination of this Provider Agreement, in BioTE’s sole discretion.

**1.7** All Products shall be concurrently paid-for at the point of sale, except for Products requiring a prescription, which shall be paid to the 503B Facility or as otherwise directed by BioTE. In no event shall Products be provided to Provider absent prior payment for such Products. Provider shall keep an active credit card on file with BioTE, and hereby authorizes BioTE and BioTE

Distributors, as applicable, to charge said credit card for all Products purchased by Provider under this Provider Agreement.

1.8 Provider shall comply with the requirements established by BioTE's Minimum Advertised Price Policy (included here as Schedule B) and any other applicable BioTE policy, as modified from time to time in the discretion of the BioTE.

**2. Product Inspection.** Provider shall inspect Products upon receipt and during storage for damage, defect, evidence of tampering, or other non-conformance. Provider must also confirm that product seals have not been broken. If any defect is identified, Provider must report the defect to BioTE. Directions for returning defective products will be issued by BioTE. Any prescription issue must be reported directly to the providing pharmacy. Furthermore, Provider shall inspect its inventory regularly for expired or soon-to-be expired Products and shall remove those Products from inventory. Provider shall not sell expired Products, and shall promptly destroy such expired products immediately after their expiration.

**3. Product Storage and Handling.** Provider shall store the Products as indicated by either directions contained on Product label or information provided by Supplier, if no such directions for storage are printed on Product label.

**4. Alterations Prohibited.** Provider shall sell Products in their original packaging, with all seals intact. Relabeling, repackaging (including the separation of bundled products or the bundling of products), and other alterations to the Products or their packaging is prohibited. Provider shall not tamper with, deface, or otherwise alter serial numbers, lot or batch codes, or other identifying information on Products or packaging. Removing, translating, or modifying the contents of any label or literature on or accompanying the Products is prohibited.

**5. Recall and Consumer Safety.** To ensure the safety and well-being of the end users of the Products, Provider shall communicate all safety information to consumers and cooperate with BioTE with respect to any Product recall.

**6. Customer Service.** Provider must be able to accurately describe, demonstrate, and sell each Product kept in inventory or fulfilled by a 503B Facility and be able to advise patients and/or clients on how to use the Products safely and properly. Provider must be available to respond to customer questions and concerns both before and after sale of the Products and should endeavor to respond to customer inquiries promptly. Providers must represent the Products in a professional manner and refrain from any conduct that is or could be detrimental to the reputation of BioTE.

**7. Consumer Confusion.** Providers are prohibited from advertising, marketing, displaying, or demonstrating non-BioTE products together with BioTE Products in a manner that would create the impression that the non-BioTE products are made by, endorsed by, or associated with BioTE. This includes similar or competing products on third party marketplace sites, all within the same business account or storefront.

**8. Compliance with Applicable Laws.** Providers shall comply with any and all applicable laws, rules, regulations, and policies related to the advertising, sale, distribution, and marketing of the Products. This requirement includes any and all consumer safety- or consumer protection-related laws, including, but not limited to California Proposition 65, as well as any applicable state and federal laws concerning prescription drugs.

**9. Use of BioTE® Medical Intellectual Property.** Provider is granted a limited, non-exclusive, non-transferable, revocable license to use the BioTE brand, name, logo, trademarks, service marks, trade dress, patents, copyrights, product descriptive content, product imagery, lifestyle imagery and other intellectual

property related to the Products (the “BioTE IP”) solely for purposes of marketing and selling the Products as set forth herein, and this license shall cease immediately upon termination of a Provider’s status as an authorized provider of BioTE Products. BioTE may review, approve, and/or reject, in its sole discretion, a Provider’s use of the BioTE IP at any time. All goodwill arising from Provider’s use of the BioTE IP shall inure solely to the benefit of BioTE. Provider acknowledges and agrees that BioTE is the sole and exclusive owner of all rights, title, and interests in and to the BioTE IP, and to the extent Provider develops any improvements, modifications, know-how, inventions, derivatives, or the like in relation to the BioTE IP (“Improvements”), Provider hereby assigns all rights, title, and interests in such Improvements to BioTE without the need for additional consideration. In the event such Improvements cannot be assigned by operation of law or otherwise, Provider hereby grants, without the need of additional consideration, a non-exclusive, fully paid up, royalty free, perpetual, irrevocable, transferable, sublicensable, worldwide license in such Improvements to BioTE.

**10. Termination.** If a Provider violates any provision of the Provider Agreement, BioTE reserves the right to terminate Provider’s status as an authorized provider of BioTE Products in addition to all other available remedies. Upon termination of Provider’s status, Provider shall immediately cease selling the Products, representing itself as an authorized provider of BioTE Products, and any other actions that may give the impression that Provider is an authorized provider of BioTE Products or has any affiliation whatsoever with BioTE.

**11. Indemnity.** Provider shall assume all liability and indemnify, defend, and hold harmless BioTE, including BioTE Distributors, and all related officers, directors, employees, agents, affiliates, successors and permitted assigns (collectively, “Indemnified Party”) from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under this Provider Agreement and the cost of pursuing any insurance providers, incurred by Indemnified Party, relating to or resulting from any claim of a third party or BioTE arising out of or occurring in connection with the Products acquired from or facilitated through BioTE, Provider’s negligence, willful misconduct, or breach of this Provider Agreement. Provider shall not enter into any settlement without Indemnified Party’s prior written consent.

**12. Availability of Injunctive Relief.** If there is a breach or threatened breach of this Provider Agreement, it is agreed and understood that BioTE shall have no adequate remedy in money or other damages and accordingly shall be entitled to injunctive relief and other equitable remedies; provided, however, no specification in this Provider Agreement of any particular remedy shall be construed as a waiver or prohibition of any other remedies in the event of a breach or threatened breach of this Provider Agreement by Provider. No failure, refusal, neglect, delay, waiver, forbearance, or omission by BioTE to exercise any right(s) herein or to insist upon full compliance by Provider with Provider’s obligations herein shall constitute a waiver of any provision or otherwise limit BioTE’s right to fully enforce any or all provisions and parts thereof.

**13. Modification.** BioTE reserves the right to update, amend, or modify this Provider Agreement at any time.

**14. WARRANTY DISCLAIMER.** PROVIDER ACKNOWLEDGES AND AGREES THAT THE BIOTE PLATFORM, AND ANY PRODUCTS ACQUIRED FROM BIOTE, INCLUDING PRESCRIPTION BASED PRODUCTS, IS NOT A SUBSTITUTE FOR A MEDICAL DIAGNOSIS OR TREATMENT PLAN, AS SUCH IS THE SOLE RESPONSIBILITY OF PROVIDER. BIOTE, INCLUDING BIOTE DISTRIBUTORS, DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, INCLUDING WARRANTIES WITH RESPECT TO PRESCRIPTION PRODUCTS PROVIDED BY A THIRD PARTY 503B FACILITY, NON-

INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, AND ALL OTHER WARRANTIES ARISING BY OPERATION OF LAW, COURSE OF DEALING, CUSTOM OF TRADE OR OTHERWISE. BIOTE, INCLUDING BIOTE DISTRIBUTORS, SHALL NOT BE LIABLE TO PROVIDER UNDER ANY CIRCUMSTANCES FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, LOSS OF SALES, OR LOSS OF PROFITS, ARISING OUT OF, OR RELATING TO, AND/OR IN CONNECTION WITH ANY BREACH OF THIS PROVIDER AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT BIOTE WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND (D) THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL BIOTE'S, INCLUDING ITS DISTRIBUTORS, AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS PROVIDER AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO BIOTE, INCLUDING BIOTE DISTRIBUTORS, FOR THE PRODUCTS SOLD OR FACILITATED HEREUNDER OR \$10,000, WHICHEVER IS LESS.

**15. Confidential Information.** All non-public, confidential or proprietary information of BioTE, including, but not limited to, specifications, samples, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by BioTE to Provider, whether disclosed orally or disclosed or accessed in written, electronic or other form, and whether or not marked, designated or otherwise identified as "confidential," in connection with this Provider Agreement is confidential, solely for the use of performing this Provider Agreement and may not be disclosed or copied unless authorized by BioTE in writing. Upon BioTE's request, Provider shall promptly return all documents and other materials received from BioTE.

**16. Miscellaneous.** This Provider Agreement and any dispute arising under it shall be governed by, construed, and enforced in accordance with the laws of the State of Texas without regard to its choice of law rules. In the event of a dispute over the terms or performance under the Provider Agreement, Provider expressly submits to personal jurisdiction and venue in the federal or state courts in Dallas County, Texas. If any provision of the Provider Agreement is held contrary to law, the remaining provisions shall remain valid. Except as otherwise permitted by this Provider Agreement, no amendment to or modification of this Provider Agreement is effective unless it is in writing and signed by an authorized representative of each party. This Provider Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.

**17. Assignment.** Provider shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Provider Agreement without the prior written consent of BioTE. Any purported assignment, transfer, delegation or subcontract in violation of this Section shall be null and void. No assignment, transfer, delegation or subcontract shall relieve Provider of any of its obligations hereunder. BioTE may at any time assign, transfer, delegate or subcontract any or all of its rights or obligations under this Agreement without Provider's prior written consent.

**18. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Provider Agreement shall be construed as creating any agency, partnership, franchise, business opportunity, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Provider Agreement.

**19. Execution.** The parties have caused this Provider Agreement to be duly executed and delivered as of the date set forth below.

*[Signature Page Follows]*

**PROVIDER'S AGREEMENT TO TERMS OF PROVIDER AGREEMENT:**

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**PROVIDER INFORMATION [*REQUIRED*]:**

Practitioner Type \_\_\_\_\_

First name \_\_\_\_\_

Last name \_\_\_\_\_

Email \_\_\_\_\_

License # \_\_\_\_\_

License State \_\_\_\_\_

Years in practice \_\_\_\_\_

Credit Card on File \_\_\_\_\_

**PRACTICE INFO [*REQUIRED*]:**

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone/Fax \_\_\_\_\_

**BIOTE'S AGREEMENT TO TERMS OF PROVIDER AGREEMENT:**

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

## SCHEDULE A

### IDENTIFICATION OF BIOTE ANCILLARY PRODUCTS

Product Name	UPC Number
ADK 5	6 93749 00705 0
ADK 10	6 93749 00706 7
Arterosil HP	8 59373 00312 1
Bacillus Coagulans	6 93749 01113 2
BPC-157	7 04521 66296 8
Curcumin-SF	6 93749 00865 1
Deep Sleep	7 00306 88417 4
DIM SGS+	6 93749 00863 7
Hair Rescue: Activate	7 87790 68282 0
Hair Rescue: Repair	7 87790 68272 1
Iodine+	6 93749 00704 3
Luminate	7 04521 66297 5
Methyl Factors+	6 93749 00867 5
Multi-Strain Probiotic 20B	6 93749 00864 4
NMN Complex	7 00306 88417 4
Omega 3+COQ10	6 93749 00866 8
Prolon Fast Bar - Nuts & Cacao Nibs	n/a
Prolon Fast Bar - Nuts & Honey	n/a
Prolon HCR1	n/a
Prolon Professional	n/a
Prolon w/ Soup Variety 2	n/a
Senolytic Complex	7 04521 66295 1
Serene	7 04521 66293 7

## **SCHEDULE B**

### **BIOTE MINIMUM ADVERTISED PRICING POLICY**

BioTE® Medical, LLC (“BioTE”) expects its providers, distributors, and other resellers (“Resellers”) of BioTE branded products to invest time and resources to provide potential customers with knowledgeable staff, appealing product presentation, available inventory and other services that promote the sale of BioTE products.

To promote these investments by our Resellers, BioTE has adopted a Minimum Advertised Price Policy (“MAP Policy”), with an effective date of January 20, 2021. This MAP Policy supersedes and replaces any prior policies or directives which were in effect as of the effective date with respect to MAP Products (as hereinafter defined) related to minimum advertised pricing for such MAP Products.

The MAP Policy applies to BioTE’s products defined in the attached Exhibit 1 (collectively, the “MAP Products”), which Resellers advertise in the United States and its territories. The following guidelines apply:

1. BioTE is implementing this MAP Policy unilaterally, and BioTE will enforce the MAP Policy in its sole discretion.
2. The Minimum Advertised Price for each MAP Product subject to the MAP Policy shall be as identified in the attached Exhibit 1. The MAP Policy does not establish maximum advertised prices. All Resellers may advertise MAP Product at any price in excess of the Minimum Advertised Price.
3. This MAP Policy only applies to the following forms of advertisements: 1) Internet advertising in any form, including but not limited to webpages, pop up ads, banner ads, broadcast emails, third party placement (destination pages, social media, third-party sites), and pricing on Reseller’s own website, or any website if it is any way accessible by an HTML link, 2) Online auction sites, or 3) Any form of mass communication via mobile device or online, including Facebook, Twitter, Instagram, other social media mediums, and text messaging.
4. Nothing in this MAP Policy shall create or constitute an agreement between BioTE and any of its Resellers as to the price at which any Reseller sells the MAP Products. This MAP Policy applies to the advertised price of MAP Products only, and does not apply to the price at which Resellers actually sell or offer for sale the MAP Products to an individual customer. Each Reseller remains free to independently set the price at which it sells the MAP Products, and no employee or agent of BioTE is authorized to suggest anything to the contrary.
5. In the event a Reseller violates this MAP policy, BioTE reserves the right, at its sole and absolute discretion, to take action to enforce this MAP Policy and to do any of the following: termination of Reseller’s participation in any promotional, rebate, marketing or

discount program; termination of Reseller's ability to purchase or resell the MAP Products; refusal to accept future orders; or termination of Reseller's ability to supply the MAP Products to anyone that that violates the MAP Policy.

6. BioTE's decision not to impose remedial action for a particular incident or violation of this MAP Policy shall not be construed as a waiver or amendment of this MAP Policy or as a waiver of BioTE's right to impose remedial action for other violations.
7. BioTE discourages any complaints by Resellers of other perceived reseller MAP Policy violations. BioTE does not seek, nor will it accept, from any Reseller any assurance of compliance with the MAP Policy.
8. BioTE will unilaterally determine the need for any enforcement and the nature of such enforcement. All questions regarding this MAP Policy will be addressed through this through authorized e-mail to [MapPolicy@BioTE.com](mailto:MapPolicy@BioTE.com). No other individual is authorized to bind BioTE to any modification of this MAP Policy.
9. BioTE may modify, alter, suspend or cancel this MAP Policy at any time and for any reason in BioTE's sole discretion. Any such modification will be in writing. Without limiting the foregoing, BioTE may amend the MAP Policy from time to time to add new MAP Products without altering or limiting the application of the MAP Policy to the existing products subject to the MAP Policy.



## EXHIBIT 1

### MAP PRODUCTS

#### MINIMUM ADVERTSTED PRICE FOR MAP PRODUCTS

Product Name	UPC Number		MSRP
ADK 5	6 93749 00705 0	\$	30.00
ADK 10	6 93749 00706 7	\$	36.00
Arterosil HP	8 59373 00312 1	\$	99.00
Bacillus Coagulans	6 93749 01113 2	\$	19.00
BPC-157	7 04521 66296 8	\$	99.00
Curcumin-SF	6 93749 00865 1	\$	22.00
Deep Sleep	7 00306 88417 4	\$	35.00
DIM SGS+	6 93749 00863 7	\$	45.00
Hair Rescue: Activate	7 87790 68282 0	\$	70.00
Hair Rescue: Repair	7 87790 68272 1	\$	70.00
Iodine+	6 93749 00704 3	\$	39.00
Luminate	7 04521 66297 5	\$	99.00
Methyl Factors+	6 93749 00867 5	\$	39.00
Multi-Strain Probiotic 20B	6 93749 00864 4	\$	24.00
NMN Complex	7 00306 88417 4	\$	99.00
Omega 3+COQ10	6 93749 00866 8	\$	40.00
Prolon Fast Bar - Nuts & Cacao Nibs	n/a	\$	30.00
Prolon Fast Bar - Nuts & Honey	n/a	\$	30.00
Prolon HCR1	n/a	\$	225.00
Prolon Professional	n/a	\$	225.00
Prolon w/ Soup Variety 2	n/a	\$	225.00
Senolytic Complex	7 04521 66295 1	\$	50.00
Serene	7 04521 66293 7	\$	50.00