

**DISTRUPOL GERMANY GMBH**  
**Terms and Conditions of Purchase**

**1. General**

In these terms and conditions "Buyer" refers to Distrupol Germany GmbH and/or its subsidiary, associated or operating companies and "Seller" refers to the individual, firm or company with whom the Buyer has placed an Order for the supply of goods to be bought by the Buyer from the Seller ("Goods"). The term "Contract" shall refer to any Order placed by the Buyer, and accepted by the Seller for the delivery of Goods. "Order" means the Buyer's written instruction to supply the Goods, incorporating the present terms and conditions of purchase (the "Purchase Conditions").

**2. Application of Purchasing Conditions**

2.1 The Order constitutes an offer by the Buyer to purchase Goods from the Seller in accordance with these Purchase Conditions.

2.2 A Contract for the supply of Goods shall be concluded between the parties on the earlier of (i) the Seller issuing written acceptance of the Order; or (ii) any act by the Seller consistent with fulfilling the Order, at which date the Contract shall come into existence.

2.3 These Purchase Conditions apply to the Contract to the exclusion of any other terms that the Seller seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

**3. Ordering Terms**

3.1 Seller shall respond to all Orders issued by Buyer latest within 5 working days of the Seller's receipt of the Order. Order confirmations shall include express confirmation of quantities, product specifications, prices and delivery dates.

3.2 Unless the Buyer's Order is confirmed in writing within 1 week of the date of Order, or delivery takes place within that time in response to the Order, the Buyer shall cease to be bound by it. Any modified acceptance of the Buyer's Order by the Seller is required to be expressly set out in writing. In this case the Contract shall become effective only when such modifications are approved by the Buyer in writing.

**4. Delivery and Quantity**

4.1 In the absence of any agreement to the contrary the Goods shall be Delivered at Place (DAP) in accordance with Incoterms 2020 to the place of destination specified in the Order. Time for delivery shall be of the essence of the Contract and the Buyer reserves the right to cancel without redress by the Seller, either the whole or the unexecuted part of the Order if the delivery is not within the time specified on the Order. If the Goods are delivered to the Buyer in excess of the quantities ordered the Buyer shall not be bound to pay for the excess and any excess will be and will remain at the Seller's risk and will be returnable at the Seller's expense. Deliveries in instalments will only be accepted with the Buyer's prior written consent.

4.2 The Buyer shall not be deemed to have accepted the Goods until it has had 5 working days to inspect them following delivery. The Buyer shall also have the right to reject the Goods as

though they had not been accepted for 5 working days after any latent defect in the Goods has become apparent.

- 4.3 If the Seller is responsible for delivery or for arranging delivery of the Goods to the Buyer's premises the Seller will be liable for all damage which it or its carrier causes to the Goods or the Buyer's property in the course of delivery and completion of offloading. If Goods are delivered before the date specified in the Order, the Buyer shall be entitled at its sole discretion to refuse to take delivery or to charge for insurance and storage of the Goods until the contractual date for delivery.
- 4.4 The Seller shall ensure that accurate information is provided to the Buyer as to the country of origin of the Goods and shall be liable to the Buyer for any additional duties or taxes for which the Buyer may be accountable should the country of origin prove to be different from that advised by the Seller. Unless otherwise stated in the Order, Seller is responsible for obtaining all the export and import licences for the Goods and shall be responsible for any delays due to such licences not being available when required.
- 4.5 Deliveries must be notified to the relevant Buyer site, at least 24 hours prior to delivery unless otherwise stated on the Order.
- 4.6 The Seller will ensure deliveries of food, personal care or pharmaceutical products are not included in mixed loads with hazardous, industrial or corrosive substances. Seller will further ensure all Goods and primary packaging are appropriately protected from adulteration and contamination during storage and transit.

## **5. Proof of Delivery ("P.O.D")**

Where the Buyer has requested that the Seller deliver direct to the Buyer's customer, a P.O.D. signed by the recipient (with all details, including the Buyer's customer's signatory name, clearly printed) must be provided to the Buyer's site from where the Order was placed. The P.O.D. must quote the Buyer's purchase order number, quantity and description of Goods delivered and be received at that site, free of charge, within 3 working days of delivery of the Goods.

## **6. Certificates of Analysis**

Certificates of Analysis for all chemical Goods shall be provided free of charge with all deliveries or faxed prior to delivery, unless otherwise agreed in writing. They must quote the batch number and the Buyer's purchase order number.

## **7. Quality**

- 7.1 The Goods shall be of the best available design, of the best quality, material and workmanship, be without fault and conform in all respects with the Order and any specifications supplied or advised by the Buyer to the Seller. The Seller warrants, represents and undertakes to the Buyer that:
- 7.1.1 the Goods are supplied in accordance with the specification agreed by the parties and have been tested accordingly by the Seller;
- 7.1.2 the Goods are of good quality, free from faults or defects in material, workmanship or design;
- 7.1.3 where the Goods are custom designed, blending or manufactured for the Buyer, or technical advice in relation to their formulation, application and use has been provided by the Seller, the Seller warrants the Goods are fit for their purpose;7.1.4

all information provided by the Seller to the Buyer in relation to the Goods shall be true and accurate in all material respects;

7.1.5 it has provided the Buyer with all product and technical information as may be required by law; and

7.1.6 the Goods comply with all applicable laws and regulations and with best practices of the relevant industry.

7.2 The Buyer will subject all Goods supplied under the Contract to inspection upon delivery as to whether the Goods supplied reveal any apparent deviations in quantity or type of goods delivered and/or externally visible transport damage. Any defects discovered during such incoming goods inspection will be notified to the Seller within five working days from the date of delivery of the Goods to the Buyer. If Buyer detects any non-conformance of the Goods with the warranties per clause 7.1 (which could not reasonably be detected during the incoming goods inspection) after delivery, such non-conformance will be notified to the Seller within five working days from the date at which the Seller shall have become aware of the non-conformance. Any further obligations on the part of Buyer to examine the Goods and give notice of defects are excluded.

7.3 If the Goods have a defect and the defect has been notified in good time, the Seller is obliged to remedy the defect at Buyer's discretion by repair or replacement delivery. If such remedy fails, the Buyer shall be entitled to reduce the purchase price or to withdraw from the Contract. Further claims for damages remain unaffected.

7.4 The warranty period for Buyer's claims for defects is 36 months from delivery of the Goods to the Buyer. In the case of replacement delivery and rectification of defects, the warranty period for replaced and repaired parts shall begin anew.

## **8. Demurrage**

Demurrage will only be accepted after the standard time of 3 hours from the agreed booking time. If the Seller misses the booking time no demurrage will be paid.

## **9. Inspection**

The Buyer reserves the right to inspect the Goods during their manufacturer and prior to delivery where requested and reject any Goods or workmanship which is proved on inspection to be faulty in quality or construction, or is not of satisfactory quality, or is not reasonably fit for the purpose for which it is supplied, or which is not in accordance with the Order or not in accordance with the agreed specification. The Seller undertakes to replace such rejected Goods with all reasonable speed if requested to do so by the Buyer. The Buyer shall be under no obligation to accept such replacement of Goods. Any money paid to the Seller in respect of rejected Goods shall be repaid forthwith by the Seller upon demand by the Buyer. The Buyer reserves the right to reject Goods whether or not any part of the Goods have been accepted by the Buyer.

## **10. Title and Risk**

Unless otherwise stated in the Order, risk in the Goods shall pass to the Buyer on completion of delivery at the place specified in the Order in accordance with the agreed delivery terms.

Title to the Goods or any part of them shall pass to the Buyer on the earlier of delivery of the Goods or upon sooner payment but nothing in this condition shall affect any right of the Buyer to reject Goods.

**11. Price**

The price payable shall be that specified in the Order and unless otherwise agreed in writing by the Buyer shall be exclusive of value added tax but inclusive of all other charges, including without limitation, delivery of the Goods and any applicable duties or taxes. The invoice must be raised in the currency which is stated on the Order.

**12. Payment**

The Buyer's standard payment terms of 60 days from delivery and receipt of proper invoice unless otherwise agreed in writing.

**13. Invoices**

All invoices must be sent to the Buyer and quote the relevant Buyer's purchase order number. Without this the Buyer cannot process payments. Any invoices that require a credit note from the Seller will not be paid until the credit note of the correct value is received. The credit note must quote the Buyer's purchase order number.

**14. Offset of amount due**

The Buyer may deduct from any monies due or becoming due to the Seller any money that may be due to the Buyer from the Seller.

**15. Indemnity**

The Seller shall indemnify the Buyer against all losses, actions, costs, claims, demands, expenses and liabilities, howsoever arising or incurred by the Buyer whether in contract or tort and whether at common law, in equity, by statute or otherwise, insofar as these are attributable to one of the following circumstances:

- 15.1 the failure of the Seller to supply Goods which conform with all applicable legislation at the time of supply;
- 15.2 the provision of insufficient and/or inaccurate and/or incomplete information by the Seller;
- 15.3 the failure of the Seller to provide adequate written notice of any change in product specification; and
- 15.4 where condition 7.3 applies, any breach of the warranty as to fitness for purpose.

**16. Statutory Requirements**

- 16.1 The Goods and/or services shall be provided by the Seller in compliance with all applicable laws and regulations. To the extent that any codes, guidance and/or requirements are advisory rather than mandatory, the standard of compliance to be achieved by the Seller shall be the best practice of the relevant industry. In all cases the costs of compliance shall be borne by the Seller.
- 16.2 All Goods supplied shall be of the nature, substance and quality described by the Seller and above at clause 7.
- 16.3 The Seller will obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations and observe all health and safety rules and regulations and any other security requirements that apply at any of the Buyer's premises;

## **17. REACH**

- 17.1 Seller shall provide on a timely basis to Buyer all relevant information in order to comply with Buyer's obligations under the EU Regulation on REACH (EC1937/2006) (the "REACH Regulation").
- 17.2 Where the Seller is located outside of the European Union and there is a requirement to pre-register and/or register the Goods pursuant to the REACH Regulation, the Buyer and the Seller shall agree who will be the registrant.
- 17.3 Where the Seller is the registrant, it shall pre-register and register the Goods at its own cost and expense on a timely basis under the REACH Regulation. Failure to do this shall be a material breach and entitle the Buyer to terminate the Contract in accordance with clause 22 of these terms and conditions.
- 17.4 Where the Buyer is the registrant, the Seller shall supply at the Seller's cost all relevant information and co-operate fully with the Buyer in order to pre-register and register the Goods on a timely basis under the REACH Regulation. In addition, Seller agrees to reimburse the Buyer on an indemnity basis for all costs incurred by the Buyer in complying with the obligations imposed by the REACH Regulation. The failure by Seller to comply with these obligations shall allow the Buyer to terminate the Contract in accordance with clause 20 of these Purchase Conditions.
- 15.5 The Seller shall ensure that all safety data sheets relating to the Goods are kept updated and shall as soon as reasonably practicable inform the Buyer of any information it acquires or becomes aware of concerning any hazardous properties of the Goods or risk management measures.

## **18. Changes to products, processes or site of Manufacture**

The Seller shall notify the Buyer in writing in good time if it intends to make changes to products and/or processes, alterations to specifications/analytical methods, site of manufacture or other material changes relating to the Goods. If the Seller fails to notify the Buyer of any such changes at least 30 days prior to such change, then Buyer shall be entitled to terminate the Contract forthwith.

## **19. Sub Contracting**

Orders may not be assigned or subcontracted either wholly or in part without the written consent of the Buyer.

## **20. Intellectual Property**

The Seller warrants that the design, construction, quality and supply of the Goods specified in the Order will not infringe any patent, trade mark, service mark, registered design, know-how, confidential information, rights under licences or copyright or rights of the same or similar effect or nature in any part of the world and shall indemnify the Buyer against any action, claim, demand, costs, charges and expenses (including legal costs) arising from or incurred by reason of any infringement of this warranty. This clause shall survive the termination of the Contract.

## **21. Confidentiality**

- 21.1 The Seller shall not, without the Buyer's consent, disclose or make use of information contained in any specifications of products or formulations of the Buyer, or any other information which the Buyer expressly makes known to the Seller is of a confidential nature or such information which can reasonably be implied to be of a confidential nature, other than for the execution of an Order

from the Buyer and the Seller shall restrict disclosure of such confidential material to such of its employees, agents or subcontractors as need to know the same for the purpose of discharging the Seller's obligations to the Buyer and shall ensure that such employees, agents or subcontractors are subject to like obligations of confidentiality as bind the Seller.

21.2 The obligation of confidentiality does not apply or shall cease with regard to information, which:

21.2.1 is demonstrably already publicly known or required to be disclosed by order of court or governmental authority;

21.2.2 is released by the Buyer for disclosure by the Seller, and/or

21.2.3 is required to be disclosed to enable the Seller to perform its obligations, or to exercise its rights under the Contract.

19.3 This clause shall survive the termination of the Contract.

## **22. Termination**

22.1 Without prejudice to any other rights of the Buyer, the Buyer shall be entitled to terminate the Contract forthwith in the following events:

22.1.1 the Seller commits a material breach of any of the terms and conditions of the Contract; or

22.1.2 the Seller has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or any proceedings are commenced relating to the insolvency of the Seller; or

22.1.3 Seller ceases to carry on its business; or

22.1.4 the financial position of the Seller deteriorates to such an extent that in the reasonable opinion of the Buyer the capability of the Seller adequately to fulfil its obligations under the Contract has been placed in jeopardy.

22.2 The termination of the Contract, howsoever arising, will be without prejudice to the rights and duties of the Buyer accrued prior to termination. The conditions which expressly or implied have effect after termination will continue to be enforceable notwithstanding termination.

## **23. Insurance**

The Seller shall ensure that it has adequate insurance cover with an insurer of good repute to cover claims under this Contract or any other claims or demands which may be brought or made against the Seller by any person suffering any injury, damage or loss in connection with this Contract including, but not limited to, (a) Product Liability Insurance to the value of EUR 5 million per claim and (b) – to the extent not provided by a statutory social security regime - Employers Liability Insurance to the value of EUR 5 million per claim. The Seller shall, upon request by the Buyer, produce to the Buyer its policy or policies of insurance, together with the receipt for the last premium in respect of each policy.

## **24. Force Majeure**

24.1 The Buyer reserves the right to defer the date of delivery or payment or to cancel an Order or reduce the volume of Goods Ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Buyer. For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of either

party including but not limited to strikes, lock-outs or other industrial disputes (except involving the affected party's own workforce), act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, fire, flood, storm, the imposition of any embargo, export or import restrictions, quota or other restrictions or prohibitions, or the failure to grant any necessary licence or consent and, where relating to the Buyer, any import restriction or material change in import tariffs and costs arising as a result of or in connection with the United Kingdom's withdrawal from the European Union having an impact on the Buyer's ability to fulfill its obligation under this Agreement,

24.2 Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

24.3 If the Force Majeure Event prevents either party from complying with its obligations under this Contract for a period exceeding 4 weeks, either party shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the other.

## **25. General**

If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable the remaining provisions of the Contract shall remain in full force and effect.

## **26. Third Party Rights**

A person who is not a party to this Contract (a "third party") shall have no rights to enforce any term of this Contract.

## **27. Product Safety and Product Recall**

27.1 The Seller shall immediately notify the Buyer (and where such notification is oral, confirm such notification in writing as soon as reasonably practicable) if the Seller has any reason to believe or suspect that there is any defect in the Goods that would render the Goods unsafe to any purchaser or user of such Goods or cause an unacceptable risk to consumers, or any error or omission in the instructions for use and/or assembly of the Goods which exposes or may expose consumers to any risk of death, injury or damage to property and the Seller shall promptly provide the Buyer with all relevant details (as the Buyer may reasonably request) relating to the circumstances giving rise to the notification.

27.2 Without prejudice to the Seller's product safety obligations under any relevant legislation, the Seller shall at its own cost and expense:

27.2.1 use all reasonable endeavours to co-operate with the Buyer to take any remedial action necessary to minimise the impact of any defect in the Goods including without limitation making any agreed notifications to the relevant enforcement authorities, and issuing any written or other notification to the Buyer's customers about the manner of or operation of the Goods;

27.2.2 recall any Goods already sold by the Buyer to its customers;

27.2.3 collect any recalled Goods or defective Goods held by the Buyer;

27.2.4 appropriately destroy and dispose of any recalled Goods;

27.2.5 comply with any reasonable directions (including, without limitation, any request of the Buyer to label the Goods in a manner that the Buyer deems appropriate to warn consumers) of the Buyer in respect of the Goods; and

27.2.6 comply with any other arrangements as may be agreed between the parties in respect of the Goods.

27.3 The Seller shall indemnify the Buyer against all costs, claims, liabilities, proceedings and expenses incurred by the Buyer by reason of any act or omission of the Seller or any breach by the Seller of the terms of this Contract which renders the Goods defective or unsafe.

## **28. Governing Law and Jurisdiction**

28.1 This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the laws of Germany excluding the UN Convention on the International Sale of Goods.

28.2 The place of jurisdiction for all legal disputes in connection with the Contract shall be the courts that are competent for Buyer's registered office in Germany. Buyer is also entitled to file a claim against the Seller at the courts that are competent for the registered office of the Seller. Except in cases of preliminary injunctions, the aforementioned choices of forum are exclusive.

## **29. Compliance**

The Seller;

- (i) will comply with all applicable laws, statute, and regulations relating to competition, anticorruption and anti-bribery including, but not limited to, the Bribery Act 2010;
- (ii) acknowledges that it has access to, and reviewed, a copy of the Global Standards of Business Conduct, Anti-Bribery and Corruption, and Anti-Trust and Competition Policies at <http://www.distrupol.com> and shall adhere to the principles contained therein, and any further compliance policies provided to the Buyer, as updated from time to time;
- (iii) will have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the matters referred to at 16 and this 29 (i) and (ii), to ensure continued compliance.

## **30. Non-waiver**

A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

## **31. Data Protection**

Should the Seller receive any personal data, as defined by the General Data Protection Regulations (EU) 2016/679, as amended, replaced or superseded from time to time, including by the laws implementing or supplementing the General Data Protection Regulation (the "GDPR") from the Buyer, the Seller shall ensure that it fully complies with the GDPR and only deals with the data in so far as required to fulfil its obligations under the Contract and these terms.

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