



Dishman Standard Terms and Conditions of Sale

- 1. Interpretation.** In these terms, Seller means Dishman USA, Inc. and Buyer means any direct or indirect purchaser of the product from Seller. Sales Contract is any written contract between Seller and Buyer for the sale and purchase of product in accordance with these terms and conditions. In the absence of separate written contract, Seller's acceptance of Buyer's purchase order and the delivery of product by Seller pursuant thereto shall be considered a Sales Contract subject to these terms and conditions. Trade terms shall be in accordance with current INCOTERMS®. Buyer and Seller shall be collectively referred to herein as "Parties".
- 2. Application of Terms.** By ordering any of the products detailed in the Sales Contract, Buyer agrees to all the terms and conditions contained herein, which shall override any additional or different terms or conditions included in Buyer's purchase order or otherwise referred to by Buyer. Any amendments or additions to the Sales Contract or these terms and conditions shall be valid only if expressly agreed to in writing by Seller and signed by both Parties.
- 3. Delivery and Risk.** The product shall be delivered to the location specified in the Sales Contract. Any agreed dispatch or delivery date indicated by Seller is an approximation and time for performance is not of the essence of the Sales Contract. Seller shall not be liable for any delay in delivery howsoever caused. Unless specified otherwise in the Sales Contract, risk of loss or damage shall pass to Buyer upon delivery into the custody of the carrier. Where product is to be delivered in instalments, each delivery shall constitute a separate contract and a failure by Seller to deliver any one or more instalments in accordance with the Sales Contract shall not entitle Buyer to repudiate or cancel any other contract or instalment.
- 4. Seller's Warranty.** Seller undertakes that the product will, at the time of delivery, correspond with the Seller's specification for the product, being any specification for the product in the Sales Contract, any specification otherwise agreed in writing by Seller and the specification detailed in the Certificate of Analysis supplied by Seller for the product. Seller will supply Buyer with current Material Safety Data Sheets (MSDS) for the product. The warranties set out herein are Seller's sole warranties with respect to the product. Any other condition or warranty, whether express or implied, as to the product or its fitness for any particular purpose (whether arising under statute or otherwise) is specifically disclaimed and excluded to the fullest extent possible.

5. **Intellectual Property.** Seller warrants that the manufacture of the product covered by the Sales Contract does not infringe any patent in the country of manufacture. Buyer assumes all responsibility for the use of any design, trademark, trade name, or part thereof, appearing on the product at Buyer's request. Buyer shall indemnify Seller against any liability and costs incurred by Seller as a result of acting on Buyer's request or advice. Where the product is manufactured to a specification or process supplied by Buyer, Buyer is responsible for ensuring that such specification and/or process does not infringe the intellectual property rights of a third party. Buyer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to it by Seller and shall not use or disclose any such confidential material save for the purposes of the Sales Contract or as required by law.
6. **Liability.** Seller's liability to Buyer or any downstream customers of Buyer for any damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the product shall be limited to an amount not to exceed the amounts paid by Buyer to Seller during the twelve (12) months preceding the alleged breach, exclusive of any amounts invoiced or paid for out of pocket expenses or third-party fees. In addition, and notwithstanding any other contrary provision in the Sales Contract, in no event shall Seller be liable to Buyer for any type of consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits or opportunity costs whether or not such damages are considered direct or indirect).
7. **Material acceptance.** Buyer shall inspect the product supplied under this contract immediately after delivery. If any of the supplied product is rejected because of non-conformity with the agreed specification, Buyer shall have, as its sole and exclusive remedy, the right to return it to Seller only after inspection by Seller and confirmation by Seller that the product does not meet the specifications. Either a) failure to give written notice of rejection within 30 days of the product being delivered to the courier by Seller or the date of the Seller's invoice, whichever is the later or b) use of the product supplied under this contract, shall constitute an unqualified acceptance of such product by Buyer and a waiver by Buyer of all claims in respect of such product.
8. **Price and Terms.** Seller reserves the right to amend the Sales Contract and formally advise Buyer of such amendment by written notice at any time before shipment in the event of (a) an increase in the price, or (b) a change to the specification of the product, necessitated as a result of changes in any applicable law, increases in duties, taxes, currency regulations, transport, labor or any other cause beyond the reasonable control of Seller. Buyer will respect Seller's payment terms as defined under the Sales Contract. Seller reserves the right without prejudice to Buyer's liability to pay on the due date to charge interest on any overdue balance at a rate of 1.5% per month calculated on a calendar day basis between the due payment date and the actual date when payment is cleared into Seller's account. Such rights are in addition and without prejudice to any other rights Seller may have under this contract. Seller shall be entitled to recover all costs of collection, including reasonable

attorneys' fees. Seller shall be under no obligations under the Sales Contract where Buyer has not paid the price in accordance with the Sales Contract.

9. **Title.** Until payment in full has been received by Seller for all product supplied under the Sales Contract title to the product (but not risk of loss) shall remain with Seller. As far as practicable, the product shall be kept separate from other goods on the premises of Buyer so as to be readily identifiable as goods of Seller. If Buyer shall fail to make any payment when it becomes due or default in due performance or observance of any other obligation under this contract or enter into liquidation or receivership. Seller may then determine the contract. Upon such determination Seller shall be entitled to enter upon Buyer's premises in order to remove any of the product to which Seller has retained title and for this purpose Buyer shall afford Seller all reasonable assistance to locate and take possession of the product. Product supplied by Seller to Buyer at any time shall be deemed to have been processed or resold in the order in which the product was supplied.
10. **Force majeure.** In the event of accident, mechanical breakdown of facilities, fire, flood, strike, labour troubles, riot, revolt, war, acts of God, or contingency beyond the reasonable control of the party affected interfering with the performance of this contract, the quantity of the product provided for in this contract shall be reduced by the amount so affected without liability but the contract shall otherwise remain unchanged.
11. **Buyer's use of goods.** Buyer acknowledges that the products have not been tested by Seller for safety and efficacy in food, drug, device, cosmetic, commercial or any other use. Buyer expressly represents and warrants to Seller that Buyer will properly test, use, manufacture and market any product purchased from Seller and any final articles or goods made from them in accordance with the practices of a reasonable person who is an expert in the field and in strict compliance with all applicable laws and regulations now and hereinafter enacted. Buyer has the responsibility to verify the hazards and to conduct any further research necessary to assess the hazards involved in using the products purchased from Seller. Buyer also has the duty to warn Buyer's customers and any auxiliary personnel (such as freight handlers, etc.) of any risks involved in using or handling the products. Buyer shall comply with instructions, if any, furnished by Seller relating to the use of the products and not misuse the goods in any manner. Buyer shall not relabel or mislabel any product sold by Seller without prior written notice and express written permission.
12. **Assigning and Sub contracting.** Seller reserves the right to perform activities at any Seller affiliate and to use outside testing laboratories approved by Seller's quality department as required. Assigning and subcontracting in all the other cases shall require prior written consent of Buyer. Such consent shall not be withheld or delayed unreasonably. Buyer may not assign its obligations without the written agreement of Seller.
13. **Insolvency.** Seller shall be entitled to terminate the Sales Contract without liability in the event the Buyer is insolvent, enters into liquidation or has a receiver, administrator or manager (or similar) appointed over its assets (or threatens to make such an appointment).

14. **Governing Law.** The Sales Contract shall be governed by and construed and enforced in accordance with the laws of the State of New Jersey, U.S.A., without giving effect to the conflict of law principles thereof. Further, any claim or cause of action (whether in tort, contract, or otherwise) asserted by Buyer against Seller arising in any way out of or relating to the product or the Sales Contract shall be barred forever unless commenced within one (1) year of the date of the product delivery and/or the acts or omissions giving rise to such claim or cause of action. The one-year period provided herein shall not be waived, tolled, or extended except as agreed to by the parties in writing. The Parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Sales Contract or any Party's performance hereunder.

15. **Arbitration.** Any claim or controversy between the Parties arising out of or in any way relating to the execution, interpretation and performance of the Sales Contract (including the validity, scope and enforceability of this provision), whether such is based on contract, tort, statutory, or other legal theory of liability, shall be settled exclusively through a binding arbitration administered by the American Arbitration Association (AAA) in accordance with the AAA Commercial Arbitration Rules then in effect and judgment on the final arbitration award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The Parties shall identify and mutually appoint one (1) arbitrator who shall have at least 10 years of legal experience and experience with the manufacture and supply of chemical or pharmaceutical products, as applicable to the dispute. The place of arbitration shall be New Brunswick, New Jersey. The arbitration shall be governed by and subject to the Federal Arbitration Act and the arbitrator, in rendering his/her decision shall be bound by the substantive laws of the State of New Jersey. The arbitrator may determine how the costs and expenses of the arbitration shall be allocated between the parties, but the arbitrator shall not award attorneys' fees incurred in connection with the arbitration. The award of the arbitrator shall be accompanied by a written and reasoned opinion. Except as may be required by law, neither a Party nor the arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.