

STANDARD TERMS AND CONDITIONS FOR PHARMA DE (“CONTRACT”) (Version 1 August 2022)

1. Definitions and Interpretation

1.1 In this Contract (and in addition to any terms defined elsewhere in this Contract), unless the context otherwise requires, the following expressions shall have the following meaning:

Word(s)	Definition
Business Day	means any other days than Saturday, Sunday or public holiday or days on which financial institutes are officially closed in Berlin, Germany;
Buyer	means the person purchasing Products from Seller pursuant to this Contract;
Contract	means this agreement containing the standard terms and conditions of the Seller for Orders submitted by the Buyer for Products (as amended from time to time) and accepted in writing by Seller, as set forth in clause 3.3 below;
DAP/Delivered at Place	has the meaning defined in Incoterms® 2020;
Seller or Inceptua	means "Inceptua GmbH", registered in Germany with the register of the Amtsgericht Charlottenburg with registration number HRB 168751B;
Order	means the Buyer's purchase order for the Products which is submitted to the Seller;
Party(ies)	"Parties" means the Seller and the Buyer jointly and "Party" shall mean one of them individually;
Personal Data	means any information relating to an identified or identifiable natural person (data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
Products	mean the product(s), including any instalments of the product(s) or any parts of them, which the Seller is to supply to the Buyer in accordance with this Contract;

1.2 In this Contract, the following rules apply:

- 1.2.1 A person includes a natural person, corporation, limited liability company, partnership or any other legal entity.
- 1.2.2 A reference to a Party includes its personal representatives, successors or permitted assigns.
- 1.2.3 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.4 A reference to writing or written includes facsimiles, e-mails and any other form of electronic communication which leaves a copy able to be reproduced.

2. Application of the Contract

- 2.1. This Contract is applicable to all Orders, Order confirmations, Prepayment Invoices or other invoices between the Buyer and the Seller (the "Parties").
- 2.2. The Buyer has read this Contract and has accepted the Contract before the placement of any request for Orders or the conclusion of the Contract with the Seller.
- 2.3. Subject to clause 2.4 below, no other terms or conditions shall be of any effect unless otherwise specifically agreed upon by the Seller in a written document (e.g. an Order confirmation) duly executed by the Seller. In addition, the application of any terms and conditions other than those in this Contract, including any of Buyer's standard or general terms and conditions or any of the standard or general terms and conditions of any of Seller's affiliates, is explicitly excluded. Failure of the Seller to object to terms and conditions submitted by the Buyer shall in no event be construed as an acceptance of any of such terms and conditions (or of any other terms and conditions).
- 2.4. In the event that any of the provisions of this Contract, including the accepted Order, conflicts with or deviates from any terms or conditions (such as delivery or payment conditions) of any other written or oral agreement between Seller and Buyer (including any of its annexes), this Contract, including the accepted Order shall prevail.
- 2.5. Inceptua may at any time and at its absolute discretion amend these Terms of the Contract ("Terms"). The Buyer agrees and accepts to visit Inceptua's website at least once a month, in order to check for any changes and to obtain a copy of these new Terms, in the event that they have been amended.

3. Formation of Contract

- 3.1 Each Order by the Buyer shall constitute a binding agreement under these Terms to purchase the Products from the Seller in accordance with this Contract. For clarity, the Order is binding upon the Buyer once the Order has been accepted in writing by the Seller or the delivery is conducted.
- 3.2 The relationship between the Seller and the Buyer is that of a vendor and a purchaser. This Contract between the Parties shall not be deemed or construed to constitute or create any relationship of agency, partnership or joint venture between the Parties. Unless otherwise specified in writing, a succession of (accepted) Orders does not imply the existence of a continuing duration of an agreement of any kind between the Parties.
- 3.3 The Buyer shall be responsible, when relevant, for paying any duties, tariffs, deposits or other clearance charges on the Products, as well as freight, insurance, sales, use, excise, turnover, value added, environmental or other taxes or assessments, and any other costs and expenses normally incurred on shipments for the Products, unless otherwise agreed in writing between the Parties in an accepted Order.
- 3.4 The Seller shall not be liable for any inaccuracies in any Order or in any specifications for the Products set forth therein.

4. Delivery, Transportation

- 4.1 Unless otherwise agreed by the Seller in writing, delivery shall occur DAP (Incoterms® 2020) at the delivery address designated in the Order permitted to receive the Products. Any and all risks of the Products' loss, damage or destruction shall pass from the Seller to the Buyer as from the time Products are put at the Buyer's disposal at the named place of delivery (irrespective of whether title to the Products remain vested in the Seller).
- 4.2 In case, the Products are delivered with temperature and/or humidity data loggers, the Buyer is responsible for reading out the data and sending this by email to the Seller within 24 hours. Any non-performance of this duty will be deemed as a waiver of any rights in relation to non conformity of the delivery of the respective Products.
- 4.3 If for any reason the Buyer fails to take delivery of any Products when such Products are available for delivery, the Products shall be deemed to be delivered and risks shall pass to the Buyer at the time the Products are available for delivery; and the Seller may, in the Seller's sole and absolute discretion, withdraw from the Contract or store such Products at the Buyer's expense for such time period as the Seller in its sole discretion deems appropriate or dispose of such Products, at the Buyer's expense, in such manner as the Seller in its sole discretion deems fit. The Seller shall notify in writing (including email) the Buyer as soon as is reasonably practicable of such storage or disposal, but shall not be liable to the Buyer for any claims related thereto. Notwithstanding any disposal of the Products by the Seller pursuant to the first sentence of this clause 4.3, the Buyer shall remain liable to the Seller for any and all costs, losses, damages or expenses suffered by the Seller as a result of the Buyer's failure to timely take delivery of such Products.
- 4.4 Unless expressly agreed by the Seller in writing otherwise, all indicated or agreed delivery times are non-binding estimates made by the Seller in good faith.
- 4.5 In case of any deliveries with agreed DAP Incoterms®, the Buyer shall be solely responsible for unloading the Products at the delivery address pursuant to clause 4.1. The Buyer carries the responsibility for the prevention of damage or loss during the unloading process. The Buyer shall carry all costs arising in connection with the unloading.
- 4.6 All sales are final and the Products are non-returnable. Unless otherwise agreed by the Seller or as provided for in this Contract, the Seller under no circumstances shall be required to accept or will accept any returns.
- 4.7 For the avoidance of doubt, during the term of this Contract, in no event shall the Seller be required to deliver the Products to an address or entity other than the address or entity specified in the relevant Order (or otherwise agreed in writing to by the Seller), or to an entity which, in the reasonable opinion of the Seller, does not hold the governmental and other authorizations referred to in clause 14.1.2.

5. Acceptance, Complaints

- 5.1 Complaints about the Products, in order to be valid, must be notified to the Seller by registered mail within:
 - 5.1.1 three (3) Business Days since delivery of the Products by the Buyer if defect or non-conformity is or could reasonably have been discovered upon inspection of the Products at the time of delivery; or
 - 5.1.2 three (3) Business Days after the discovery if defect or non-conformity could not reasonably have been discovered upon inspection of the Products at the time of delivery;
- 5.2 If the Buyer fails to notify in writing the Seller of any defect, non-conformity or non-delivery pursuant to clause 5.1 with respect to any Products, such Products will be deemed to be accepted by the Buyer and in compliance with the Contract and the Buyer's specifications in all respects, and all claims in respect of the defects or non-conformity, or non-delivery of such Products shall be barred.

- 5.3 A claim based on apparent defect pursuant to clause 5.1.1 or hidden defect pursuant to clause 5.1.2 must be made (and a legal action based on apparent defect or hidden defect must be brought before the court set out in clause 16, under penalty of estoppel), at the latest within six (6) months after the delivery. This time limit, which applies notwithstanding later discovery of the non-conformity or defect, also applies to Buyer's defenses concerning non-conformity or defects.
- 5.4 In the event of a valid claim for any of the reasons set forth in clause 5.1, which claim is not barred under clause 5.2 or 5.3, the Seller's sole obligation, and the Buyer's sole remedy (to the exclusion of any other remedies (including damages)) shall be, in the Seller's sole discretion, to (i) replace the affected Products (at the Seller's reasonable expense) or (ii) reduction on the invoiced price for the affected Products. These remedies shall not be available to the Buyer if defects or non-conformity or non-compliance with the Contract result from Force Majeure (as defined in clause 12) or from the acts or omissions of the Buyer or its sales intermediaries, employees or agents.
- 5.5 All Personal Data processed within the performance of the Contract will be handled as confidential and in compliance with the current applicable directives, regulations (including the GDPR) and laws. In the event, that the Buyer is transferring Personal Data which is not needed for fulfilment of the order nor with a legitimate interest, the following shall apply: (i) the Seller will delete such data, and (ii) the Buyer shall be fully responsible for indemnifying any third party claims, damage request or fines (including those of authorities), and Seller hereby rejects all responsibility related to such Personal Data.
- 8. **Retention of Title**
Notwithstanding the delivery of the Products, the Products delivered remain property of the Seller until the price and any other costs and charges, due under all and any invoices issued by the Seller to the Buyer, have been paid in full, including, interest for late payment and indemnities. In case of non-payment upon due date, the Seller is automatically entitled to claim the Products back, at the expense of the Buyer (without prejudice to any other rights or remedies, which the Seller may have under this Contract or under the applicable law. The Buyer shall, at its own cost and expense: (i) take all necessary measures (including measures required by the applicable law) to ensure that the Products delivered remain the Seller's property, as set forth above; and (ii) give all such assistance to the Seller as the Seller may require for that purpose or in order to claim back or re-take (or have a third party take) possession of the Products in accordance with this clause 8.
- 9. **Payment**
9.1 Unless otherwise indicated by the Seller on the invoice all amounts are due 30 days net, and must be made to the account specified by the Seller.
9.2 Time is of the essence for payment. No ground, such as, for example, the filing of a complaint regarding the Products shall free the Buyer from, or in any way suspend payment of, its payment obligations.
9.3 Payment will be deemed received when the Seller has received cash or cleared funds.
9.4 If the Buyer is in default in the fulfillment of any one or more of its obligations under this clause 9, any reasonable costs incurred by the Seller in obtaining payment will be borne by the Buyer. Such costs may include but are not limited to legal fees, collection agency fees and the cost of obtaining a judgement or arbitral award or sentence regarding the payment of any outstanding sums. Without limiting any other rights or remedies available to the Seller at law or under the Contract, the Buyer shall pay interest at the rate of the lower of 1% per month or the highest rate permitted under the applicable law on any amounts not paid when due through and including the date on which payment of such amount is received by the Seller in accordance with the provisions of this Contract. In addition, if an invoice is not paid in whole or in part upon due date or if the Buyer violates any of its obligations, the Seller is entitled, without notice, to postpone, waive or cancel the performance of all Orders with the Buyer with immediate effect, without any judicial or arbitral order being necessary, and to claim immediate payment of all debts, including those not yet due, notwithstanding any prior agreement and without prejudice to any other right to which the Seller is entitled (including the right to claim damages).
- 9.5 All sums due and payable to the Seller under the Contract must be paid by the Buyer in full, and the Buyer is not entitled to any right of set-off, counterclaim, lien or other similar right unless the exercise of such right is supported by a final non-appealable court or arbitral order.
- 9.6 Subject to clause 9.2, if the Buyer disputes any amounts invoiced, it shall notify the Seller by registered mail within three (3) Business Days of the date of the invoice. If the Buyer fails to so notify the Seller, such invoice shall be deemed accepted by the Buyer.
- 10. **Limitation of Liability**
Except as otherwise expressly provided by this Contract, the Seller shall be liable only for direct damage and any liability for indirect or consequential damages suffered by Buyer or its employees, agents and sales intermediaries, including, without limitation

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loss of profits, revenue, administrative loss, loss of reputation or goodwill, general or specific, of whatever nature, is expressly excluded. The Seller is not liable for any damage resulting from the acts or omissions of the manufacturer of the Products or of the Buyer’s employees, contractors or agents. The Seller’s total liability for any reason arising under this Contract shall be limited to the total net amount invoiced under this Contract or in respect to the accepted Order that gave rise to the liability, unless such liability results from (i) gross negligence or (ii) death or injury to people caused by the Seller or (iii) such liability limitation is excluded by law.

11. Assignment/Sub-Contracting

11.1 Unless otherwise agreed by the Seller in writing, the Buyer may not novate or assign the Contract or any rights or obligations thereunder to any person or entity.

11.2 The Seller may novate or assign the Contract in whole or in part to any person or entity, without having to obtain the Buyer’s consent.

12. Force Majeure

The Seller will not be deemed to be in breach of the Contract or otherwise shall not be liable to the Buyer for any failure or delay or for the consequences of any failure or delay in performance of the Contract if it is due to any event beyond its reasonable control including, without limitation, prevention from or hindrance in manufacturing, obtaining or delivering the Products through the normal means of delivery, breakdown or power failure of plant or machinery, shortage or unavailability of raw material or Products from the normal sources of supply, acts of God, war, industrial disputes, protests, fire, flood, storm, tempest, explosion, an act of terrorism, national emergencies, compliance with any law, order, rule, regulation, directive or requirement of any government, or government agency or authority, including unforeseeable acts with respect to export/re-export or other licenses or permits.

13. Warranties and Covenants

13.1 The Buyer hereby warrants to the Seller that:

13.1.1 it will at all times maintain the integrity of the Product, including but not limited to the specification of storage and handling;

13.1.2 it holds all governmental and other authorization necessary for the Buyer to purchase and receive the Products (and export, transport, storage and import the Products (as applicable)) according to any applicable laws.

13.2 Each Party warrants that it will comply with all applicable laws, rules, regulations and orders of any federal, state or local authority (including, without limitation, any law or regulation governing the importation, exportation, sale and distribution of pharmaceuticals as well as any applicable competition laws).

13.3 The Buyer shall not, and shall not permit any third party to, modify or alter the Products in any way or handle or store the Products other than in strict compliance with the Seller’s and the manufacturer’s instructions and best industry practice.

13.4 The Buyer shall indemnify, defend and hold harmless the Seller, its parents, subsidiaries and affiliates, and their respective directors, officers, employees and agents (each an "Indemnified Party") from and against any and all actions, suits, proceedings, claims, demands and the like made against an Indemnified Party by the Buyer or a third party (including an authority or government body) arising out of or in connection with any liabilities, damages, losses, costs or expenses (including without limitation reasonable attorney’s fees and expenses) arising from or connected with (i) the use of Products by the Buyer or (ii) any alleged or actual breach by the Buyer or its representatives of any provision of this Contract (including of this clause 13). For the avoidance of doubt, the manufacturer shall remain liable for any product liability claims or actions related to its Products. Except for the warranties expressly set out in this clause 13, the Seller excludes all other contractual or legal warranties, express or implied, including but not limited to the implied warranties of merchantability or fitness for a particular purpose, as far as legally possible.

14. Confidentiality

14.1 The terms of the Contract shall be deemed confidential, and each of the Parties (including any of their corporate group members) agrees to keep such Terms and any other non-public information communicated by either Party (including any of their corporate group members) to the other strictly confidential, except (i) if and to the extent that such information is required to be disclosed by law, rule, regulation or legal process or at the request of an authority or government body, or (ii) such information is or becomes publicly available through no fault of either Party or any third party.

15. Miscellaneous

15.1 No failure or delay by the Seller to exercise any right shall operate as a waiver of such right nor shall any partial or conditional exercise of any right limit, restrict or prejudice any further exercise of the same, or any other right. Any waiver of a breach of, or default under, any provision of the Contract by the Seller will not be deemed a waiver of any subsequent breach or default and will in no way affect the other Terms of the Contract.

15.2 If any provision of this Contract shall be determined to be illegal and unenforceable, the remaining provisions shall be severable and enforceable in accordance with their

terms so long as such provisions do not fail of their essential purpose or purposes. The Seller will replace in good faith any such illegal or unenforceable provision or provisions with suitable substitute provisions which will maintain the economic purposes and intentions of this Contract.

15.3 The Buyer and the Seller warrant that they comply with all applicable laws, statutes, regulations and codes relating to including but not limited to (i) the UK Anti Bribery Act 2010, (ii) the US Foreign Corrupt Practices Act, as well as compliance with applicable laws related to (i) Human Rights, (ii) Employee Rights, (iii) European Data Protection Regulation and/or (iv) any other current relevant regulation required by law.

16. Applicable Law and Jurisdiction

This Contract, and any Order or sales or deliveries made hereunder shall be governed by and construed in accordance with the substantive laws of Germany, exclusive of the United Nations Convention on Contracts for the International Sale of Products 1980 ("CISG"). The Parties irrevocably agree to submit to the exclusive jurisdiction of the courts of Hamburg over any claim or matter arising under or in connection with the Contract.