

## A. Scope of Application

1. The following General Terms and Conditions apply for the purchase of works and other services and for the purchase of products and goods for all contracts concluded by Daiichi Sankyo Europe GmbH (hereinafter referred to as “DSE”) with companies within the meaning of § 310 of the German Civil Code [BGB] (hereinafter referred to as “contractual partners”) insofar as nothing else is specified in the contracts themselves or in the commission/order by DSE.

2. These conditions shall apply exclusively. Contradicting or deviating General Terms and Conditions of the contractual partner shall not apply unless DSE expressly agrees to them in the individual case. This also applies when DSE accepts goods/services without reservation.

3. In the case of overlaps and/or contradictions, the individual contractual arrangements between the parties shall have priority over these General Terms and Conditions; within these General Terms and Conditions, the special conditions shall have priority over the general conditions.

## B. Terms and Conditions

### I. General Terms and Conditions

#### 1. Orders/Granting of Orders

1.1 If the commission/order by DSE is not preceded by an offer of the contractual partner, the contractual partner shall confirm in writing the commission/order within five (5) working days, stating the binding delivery deadline and price; otherwise DSE is no longer bound by the order. If there is a constant business connection and the contractual partner wishes to reject the order, he shall declare this immediately; otherwise the commission/order shall be regarded as accepted. DSE shall instruct the contractual partner accordingly on making the commission/order. Any verbal agreements must be recorded in writing.

1.2 Offers made to DSE on request shall only be binding for DSE on acceptance, which shall generally be made in writing. The contractual partner is bound by his offer for a period of four (4) weeks after receipt by DSE, insofar as nothing else is agreed. DSE shall only reimburse costs for offers and samples if this was previously agreed in writing.

1.3 DSE shall grant commissions/orders in writing. The specifications regarding type of service, quantity or scope, deadline, place of destination and other conditions shall be binding for the contractual partner.

#### 2. Provision of Performance

2.1 For the provision of performances the deadline cited in the commission/order is binding and must be strictly observed. The term of agreed deadlines for the provision of the performance begins on receipt of the commission/order by the contractual partner. The contractually agreed output must be delivered or rendered by the deadline cited in the commission/order and – insofar as relevant to the type of output to be provided/ any results achieved must be made unrestrictedly available to DSE.

2.2 DSE must be informed immediately and in writing of any delays in connection with the provision of performances as soon as they become known, stating the reasons and the expected duration of the delay. Alterations of agreed deadlines for the provision of the performance are only effective if they are confirmed by DSE. In the case of default, DSE is entitled to its statutory claims. In particular, DSE is entitled, at its own discretion, to demand either fulfilment or compensation due to the delay in the provision of performances or – after expiry of a reasonable period of grace – to withdraw from the contract or to demand compensation instead of the performance. If the delay only affects part of the output, this shall apply for the whole service if DSE is not interested in a part performance. The contractual partner shall be fully liable to DSE for any damages arising from a delay for which the contractual partner is responsible.

2.3 If DSE cannot accept the output on the agreed date, it shall inform the contractual partner accordingly as soon as it becomes aware of this. The deadline for the provision of performances shall be postponed by the duration of the delay in acceptance by DSE. In addition to this, DSE is entitled to postpone agreed deadlines for the provision of performances at any time within reason if, after conclusion of the contract, unforeseen interruptions of its operations occur due to force majeure (e.g. natural catastrophes, epidemic, war, uprising or their consequences), strike or lack of raw materials. If the aforementioned interruptions of operation are not merely temporary, or if more than two (2) months pass since the original deadline for the provision of performances, DSE and the contractual partner are respectively entitled to withdraw from the contract.

2.4 The contractual partner can only claim the absence of documents to be supplied by DSE as the reason for the delay if the contractual partner has sent a written reminder for the documents and has not received them within a reasonable period of time.

## 3. Prices/Terms and Conditions of Payment

3.1 Insofar as nothing else is agreed in the individual agreement with the contractual partner, payment shall be made within 21 days of receipt of the invoice with a discount of 3% or within 60 days of receipt of the invoice without any discount. The date of the DSE stamp of receipt shall be determining. A price cited by the contractual partner as binding shall be regarded as a fixed price and cannot be unilaterally increased later. Advance payments agreed in exceptional cases shall be made on submission of specifications and schedules of prices; where applicable, the progress of completion may be monitored by DSE technical personnel at the premises of the contractual partner. DSE reserves the right to make advance payments only after receiving the corresponding bank guarantee or a similar security mean by the contractual partner.

3.2. Invoices shall be issued at the earliest with the provision of services respectively on delivery, stating the according order number. Part-invoices by the contractual partner are not permitted unless something else has been agreed between the parties in the individual contract.

3.3 All prices are understood to be free delivery, including packaging and insurance. The prices also include the remuneration for installation and assembly work, training, instructions and circuit diagrams, as well as licence fees for software and industrial property rights. The statutory value-added tax must be itemised separately. Interest after due date is excluded.

3.4 The payment shall be subject to the conditions set out in the commission/order. In case of a belated invoice receipt, the term for the payment deadlines shall begin at the earliest on the date of receipt of the invoice subject to the prior receipt of the goods or rendering of the services in accordance with the contract. The payment itself and the time of payment shall have no negative impact on the guarantee rights for DSE.

3.5 Any payment does not contain any recognition of contractual terms and conditions imposed unilaterally on DSE after and in deviation from the commission/order.

3.6 The payment fully covers the performance/output provided by the contractual partner. Further costs (travel costs, ancillary costs, expenses) shall only be reimbursed by DSE after prior written approval and on presentation of the corresponding original receipts.

## 4. Change Request

DSE can demand changes in the scope of performance, in particular with regard to the agreed services/output, methods and deadlines, even after conclusion of the contract. In this case the contractual partner shall inform DSE within 10 working days if the required change is possible and which effect this will have on the contract, in particular taking into account the time frame, the remuneration and any collaboration obligations. If notice is not given within this period, the desired changes shall be regarded as feasible without any consequences for prices and deadlines. DSE shall inform the contractual partner of this consequence on sending the change request.

The parties shall agree on how to handle the consequences amicably. Otherwise the originally agreed provision of performance shall be continued in accordance with the original conditions.

## 5. Confidentiality

5.1 All documents, data and information provided by DSE for the contractual partner, as well as all knowledge gained by the contractual partner regarding the products, customers and business activities of DSE shall remain the property of DSE, must be treated as confidential, and must not be made available to third parties for purposes other than those agreed in the contract. The contractual partner shall keep the subjects of the contract, technical documents etc. carefully and in such a way as to rule out any misuse. After execution of an order, or if an order does not take place, any such documents, including any duplicates or copies, shall be returned to DSE without request and free of charge. The contractual partner does not have any rights of retention.

5.2 The contractual partner shall be liable for all damages incurred by DSE from an infringement of any of these obligations by the contractual partner or his suppliers or employees.

## 6. Data Protection

Insofar as personal data are processed within the framework of a commission/order, an additional data protection agreement shall be concluded between the parties. The parties shall exercise due care in ensuring that all persons entrusted by them with the processing or fulfilment of orders within the framework of this agreement observe the legal stipulations regarding data protection and do not pass the information on to third parties or use them for any other purpose. Such persons shall be obliged subject to data protection law to maintain data secrecy before they begin their work and verification of this provided to the contractual partner on request.

## 7. Guarantee

7.1 The contractual partner guarantees that, on transfer of the risk/acceptance of the goods or (works) services the goods / (works) services are free of material and legal defects. The legal definition of defect shall apply.

7.2 The rights of DSE in the case of defects also extend to those parts of the goods or (work) services which the contractual partner has purchased from a sub-supplier or had rendered by a subcontractor.

7.3 The contractual partner shall guarantee the freedom of the goods / (work) services from defects for a period of 36 months after delivery/service provision. This period shall not apply if the contractual partner agrees to a longer guarantee period. This period agreed by the contractual partner shall then apply as the guarantee period.

7.4 In the event of defects, and notwithstanding its other rights, DSE can demand either immediate post-fulfilment in the form of elimination of defects or replacement. DSE can grant the contractual partner a reasonable period of grace for the post-fulfilment and, after expiry of the period, either withdraw from the contract or reduce the remuneration and demand compensatory damages or reimbursement of its expenses. If a performance is rendered in instalments, the right of withdrawal in the event of defective part/services shall apply to the whole contract; this does not apply in the case of insignificant infringements of obligations. These rights can also be exercised without granting a period of grace insofar as the law does not require this.

7.5 After expiry of a reasonable period granted for repair or defect-free substitute delivery, DSE is entitled to eliminate the defects itself or to have them eliminated by a third party at the expense of the contractual party, or to otherwise effect substitute procurement. No period of grace must be granted if the post-fulfilment fails or if, due to particular urgency or the threat of particularly high damages, the purchaser cannot reasonably be expected to give the contractual partner the chance of remedying the situation.

7.6 In the case of substitute goods / (works) services, the aforementioned guarantee period begins as of delivery of the replacement. In the case of repairs, the expiry of the guarantee period is suspended for the duration of the repairs. In the case of substitution of parts of the goods / (works) services, the aforementioned guarantee periods for the parts concerned begin as of the delivery of substituted partial deliveries or (works) services; in the case of repairs of partial goods / (works) services, the expiry of the guarantee period for the partial delivery/ (works) services is suspended for the duration of the repairs.

7.7 Insofar as the contractual partner is responsible for product damage, he is obliged to exempt DSE from compensation claims by third parties to the extent that the cause lies within his sphere of control and organisation and he is himself liable in the external relationship. Further legal rights of DSE shall remain unaffected.

7.8 In this context the contractual partner is also obliged to reimburse any expenses which arise from or in connection with a call-back campaign by DSE. Insofar as possible and appropriate, DSE shall inform the contractual partner regarding the content and extent of the call-back measures to be executed and give him the chance to state his case.

## 8. Liability

8.1 The contractual partner shall be liable for all damages caused by intent or negligence. On request by DSE, the contractual partner shall verify that he has a liability insurance policy covering personnel, property and financial damages for the appropriate amount.

8.2 The contractual partner shall guarantee that the service/order/works comply with all legal requirements and that there are no infringement of the rights of others.

8.3 If a successful claim is brought against DSE by a third party with regard to a material or legal defect in the service/order/works of the contractual partner, the contractual partner is obliged to exempt DSE from these claims. DSE is not entitled to make any agreements with the third party without the consent of the contractual party, and in particular, to conclude any settlement. The exemption obligation of the contractual partner also applies to all expenses which arise necessarily out of or in connection with the claim of a third party.

## 9. Liability for Infringement of Intellectual Property Rights

9.1 The contractual partner guarantees that the contractual goods / (works) services are free of industrial property rights, copyrights and other rights of third parties which would preclude or restrict their use.

9.2 The contractual partner exempts DSE from all claims of third parties due to infringement of industrial property rights. DSE shall coordinate its

defence against such claims of third parties with the contractual partner.

9.3 The contractual partner is obliged to inform DSE immediately and in writing if claims are made against him in connection with contractual goods / (works) services due to the infringement of industrial property rights.

## 10. Assignment/Set-off/Subcontractors

The assignment of claims to third parties, as well as the use of subcontractors shall require the prior consent of DSE. The contractual partner must ensure that the assignee/subcontractor is aware of and accepts these General Terms and Conditions.

DSE is entitled to set off payment claims of the contractual partner against its own claims or to exercise a right of retention regarding such claims.

## 11. Termination/Withdrawal

DSE may withdraw from contracts at any time. The legal consequences are set out in § 346 BGB. Framework agreements and other continuous obligations can be terminated by DSE any time with notice in writing of one (1) month to the contractual partner. Goods and (works) services delivered / rendered up to the time of termination shall be remunerated in accordance with the contractually agreed terms and conditions on provision of the corresponding verifications.

## 12. Withdrawal in case of Insolvency

If insolvency proceedings are initiated against the assets of the contractual partner, or if an application is made for the initiation of insolvency proceedings, DSE must be informed immediately. In such cases, DSE is entitled to withdraw from the contract or to terminate the contract without notice.

## II. Special Terms and Conditions for the purchase of Goods

The supplementary provisions in the special terms and conditions apply in addition to the general terms and conditions.

### 1. Transfer of Risk

1.1 The performance and price risk only pass to DSE on acceptance of the delivery at the place of delivery even if in individual cases dispatch at the expense of DSE is agreed or DSE takes out the transport insurance policy itself.

“DDP” [delivered duty paid (...named place of destination)] shall apply in accordance with INCOTERMS 2010.

1.2 The contractual partner is obliged to provide DSE with all the necessary product information, safety information, assembly instructions, labour protection measures, operation and consumption information on delivery.

### 2. Shipment/Packaging/Insurance/Custom Regulations

2.1 In the case of deliveries of hazardous goods, the relevant regulations must be observed and complied with by the contractual partner up to the place of destination.

2.2 The contractual partner is responsible for the proper packaging of the delivery. The contractual partner is obliged to take back and dispose of the packaging material at his own expense.

2.3 Orders shall be delivered free place of destination including delivery note and packing slip on the specified deadline. The contractual partner shall provide all of the necessary information for orderly import and submit the corresponding documents, ideally before, but at the latest at the time of delivery.

2.4 All shipping documents, such as shipping note or delivery note, must include order number, order date, subject of the delivery, quantity of the delivery and, where applicable, the delivery address specified by DSE. Insofar as the order refers to technical appliances or machines, the delivery note must indicate the corresponding appliance, manufacture or serial number. All delivery notes must be provided in single copy.

2.5 Supplied machines, devices and other equipment must fulfil the requirements of accident prevention regulations for the chemicals industry, the VDE guidelines, the requirements of the technical supervisory authorities, EU regulations, environmental regulations and the safety regulations for technical equipment.

2.6 In the case of deliveries or services provided before the agreed deadline, the same payment deadline shall apply as if the deliveries were provided by the agreed deadline. In this case, DSE reserves the right to charge the contractual partner with any costs arising from the early acceptance of the goods (warehouse rental etc.).

2.7 On shipment, all of the relevant railway, shipping and air freight conditions must be observed and, in the case of truck transport, the CMR. The contractual partner is liable for the correctness and the completeness of the data contained in the movement certificate and for compliance with the customs regulations.

2.8 As part of the contractual partner's confirmation of the 1<sup>st</sup> order, he undertakes to provide the number of his AEO-certification or an adequate

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security declaration, as the case may be, to DSE, "Custom" Department. In this regard he also undertakes to inform DSE immediately in writing about any relevant changes.

2.9 In the case of cross-border deliveries, care must be taken that the invoice is sent to DSE at the latest on shipment of the goods consignment and contains all the necessary information regarding shipment date, shipment type, place of shipment, the commodity code according to the applicable HS Code, export list number according to annex "AL" of the German Foreign Trade and Payments regulation (or similar list positions of respective export lists) as well as, if applicable, information to ECCN according to US Export Administration Regulation and information to the origin of the goods (transportation route through US territory, production in US or with US technology). The invoice must be accompanied by the movement of goods certificate necessary for customs clearance. Invoices are not regarded as a delivery note.

2.10 The contractual partner is responsible for compliance with the applicable import and export regulations. The contractual partner is obliged to inform DSE, Custom Department, in writing immediately about any information which are relevant for export control and custom law.

2.11 Insofar as DSE has not specified any particular type of shipment, the contractual partner shall choose the type of shipment which is most favourable for DSE. If the contractual partner is in default, he is obliged to provide post-fulfilment by express shipment (express or urgent delivery, courier, express parcel, air freight etc.) at his own expense.

2.12 The contractual partner shall bear the costs for the insurance of the shipment. For cross border supplies – in consideration of EU-borders – insurance costs have to be displayed separately by the contractual partner.

2.13 If the contractual partner or his sub-suppliers do not observe the preceding provisions, DSE is entitled, notwithstanding any other rights, to refuse to accept the delivery of the goods.

### 3. Inspection and Complaint Obligation

3.1 DSE is obliged to inspect the delivered goods for obvious defects which can be readily recognised and to lodge a complaint with the contractual partner within two (2) weeks accordingly. In the case of defects which only become apparent at a later date (hidden defects), DSE shall lodge a complaint with the contractual partner within two (2) weeks after discovery, at the latest before expiry of any shelf life. In the case of goods usually left in their packaging until use, defects which only become apparent on removal from the packaging shall be regarded as hidden defects. The rest of the provisions of §377 of the German Commercial Code (HGB) are waived by the parties.

3.2 DSE can refuse to accept defective goods. Additional costs incurred in the examination and return of defective goods shall be borne by the contractual partner.

### 4. Additional or reduced Delivery

The contractual partner is not entitled to make additional or reduced deliveries. If quantity deviations nonetheless occur, additional deliveries will not be remunerated. In the case of reduced delivery, DSE is entitled to refuse to accept the delivery as a partial delivery, to demand delivery of the difference, or to reduce the price accordingly. In any case, partial deliveries already made shall not be regarded as an independent transaction.

### 5. Reservation of Ownership

Reservation of ownership by the contractual partner shall have no validity. The contractual partner shall only deliver goods which are his exclusive property and not encumbered by the rights of third parties. If a third party asserts claims to such goods, the contractual partner shall be notified accordingly by DSE and DSE shall be exempted from any such claims by third parties.

## III. Special Terms and Conditions for the Purchase of Works and other Services

The supplementary provisions in the special terms and conditions apply in addition to the general terms and conditions.

### 1. Execution of Services

The contractual partner shall provide the services subject to the agreement in accordance with the basic principles of professional conduct and taking into account the recognized state of science and technology at the time of the conclusion of the contract.

### 2. Work Results/Acceptance

2.1 The contractual partner shall notify DSE immediately of the conclusion of the work results. In coordination with DSE, an acceptance date will be agreed and the contractual partner informed of this. Insofar as nothing else is agreed in the order, there shall always be a formal acceptance inspection with a record of inspection signed by DSE and by the contractual partner.

2.2 Reservations of acceptance due to known defects shall be made in writing. If the work results do not pass the inspection, the inspection shall be repeated within a reasonable period of grace, generally within the following 30 days. If the inspection cannot be completed within a reasonable period of grace, DSE has the right to withdraw from the contract or to demand compensation due to non-fulfilment.

2.3 The use, starting-up, part or full payment of works and other services do not constitute either approval or tacit acceptance insofar as they take place in unawareness of a defect or subject to a reservation of the guarantee rights.

2.4. The transfer of risk to DSE occurs on successful acceptance.

2.5 There is no obligation to make instalment payments insofar as the contractual partner does not provide a contract fulfilment guarantee. Instalment payments shall be made only subject to reservation of acceptance even if this is not expressly noted on the transfer slip.

### 3. Rights to Work Results

3.1 Insofar as there are protectable work results within the framework of the commission/order, the contractual partner hereby irrevocably grants DSE all exclusive rights without restriction in place or time as well as transferable rights of use and exploitation, industrial property rights and rights similar to industrial property rights

3.2 In particular, DSE is entitled to duplicate, process, disseminate and use or exploit in any other known way all work results. In particular DSE has the exclusive right, unrestricted in place and time

a) to duplicate the work results on all known data carriers and storage media and to use them in the network;

b) to modify, process and translate the work results;

c) to sell and to grant simple or exclusive sub/licences regarding the work results and the work results altered subject to the entitlement subject to b) above;

d) to present, to pass on work results to third parties, for example by remote transmission or wirelessly, and to make them accessible to third parties, for example online or via internet; and

e) to use all new process technologies, development tools, libraries and software components developed within the framework of the individual contract by the contractual partner.

3.3 The contractual partner is obliged to acquire all of the necessary legal permits for the transfer of the aforementioned rights and to present them on request by DSE. The contractual partner shall ensure that any rights pursuant to §§ 12, 13 and 25 of the German Copyright Act (UrhG) are not asserted.

3.4 The contractual partner waives the right to be named as author and is obliged to acquire the corresponding waiver declarations from his employees or other third parties used by him.

### 4. Work performed on DSE Business Premises

Insofar as the (works) services are rendered (temporarily) on the premises of DSE, the contractual partner has exclusive authorisation to instruct his employees. The contractual partner's employees shall not be assumed into the operations of DSE. These employees shall only be subject to the house rules of DSE and generals, or in the individual case, to the instructions on work safety given verbally or in writing by the management.

## C. Miscellaneous Provisions

### 1. No Publicity/Headings

1.1 The contractual partner and/or its affiliated companies undertakes not to use the names, trademarks, logos or other distinctive signs ("Identifying Information") of DSE and its affiliated companies in any statement, public announcement or advertising nor issue a press release or otherwise publicize or disclose the existence of the business relationship with DSE without the prior written consent of DSE.

1.2 The headings in these terms and conditions are only for the purpose of clarity and do not interpret, limit or restrict the respective provisions in any way.

### 2. Choice of Law/Place of Fulfilment/Place of Jurisdiction

2.1 If one or more provisions of these general terms and conditions shall be invalid, this shall not affect the validity of the other provisions. Amendments and additions to the contract content confirmed by DSE are only valid if the amendment/alteration is also confirmed by DSE in writing.

2.2 The law of the Federal Republic of Germany shall apply exclusively with exclusion of the UN Convention on Contracts for the International Sale of Goods.

2.3 Place of fulfilment is the place cited by DSE in the commission/order taking into account § 269 of the German Civil Code (BGB); for deliveries the place of destination. Exclusive place of jurisdiction for all obligations or disputes arising from this contract is Munich, Germany.