

Article 1: GENERAL STATEMENT AND ORDERS

Every purchase order of products placed with HTL implies acceptance by the Buyer of the present General Terms and Conditions of Sale (“T&Cs”), and the renunciation by Buyer of its own purchase terms.

Orders shall be placed by email at order@htlbiotech.com or phone and shall contain (i) the designation of the product, (ii) the quantity and (iii) the requested Incoterm® 2020, indicative delivery or shipping date and (iv) the applicable specifications if any. Every order must be formally acknowledged by HTL in writing by sending an order confirmation by email, to be considered as a firm order. The order confirmation shall contain (i) the designation of the product, (ii) the quantity, (iii) the accepted (or acceptable) Incoterm® 2020, the indicative delivery or shipping date, (iv) the applicable financial terms and (v) the applicable specifications if any. The order confirmation issued by HTL takes precedence over any other document which is not signed by HTL. Orders made hereunder may be changed or amended only by written agreement signed by both Buyer and HTL, setting forth the particular changes to be made and the effect, if any, of such changes on the price and time of delivery. Buyer may not cancel an order unless HTL expressly agrees to such cancellation in writing. In such event, HTL will advise Buyer of the total charge for such cancellation based on written evidence, and Buyer agrees to pay such charges, including, but not limited to, storage and shipment costs, costs of producing non-standard materials, costs of purchasing non-returnable materials, cancellation costs imposed on HTL by its suppliers, and any other cost resulting from cancellation of this order by Buyer.

Article 2: DELIVERY DEADLINES

Delivery times provided in the order confirmation are established in an indicative manner based on the information brought to the attention of HTL on the day of the order. A delay of delivery cannot in any circumstances give rise to compensation. In the event, that such indicative timeline is exceeded by more than sixty (60) days, the Buyer may cancel the order.

Article 3: PRICE

Prices shown on pricelists are in euro, excluding shipping costs, taxes and duties unless otherwise provided. Pricelists may, at HTL’s own discretion, evolve increasingly or decreasingly, at any time and without prior notice. Buyer shall contact HTL for current prices prior to placing its order if it requires such information. HTL guarantees the price indicated in its written quotations for ninety (90) days. However, during this ninety (90) days period, prices may be revised if there is (i) a sharp increase in raw materials prices or (ii) a change in foreign exchange rates. In this case, if the Buyer do not agree with such revision, it may cancel its order.

Article 4: TRANSPORTATION AND DELIVERY

Sales are made “*ex works*” EXW Incoterm® 2020 at HTL’s premises (Javené, France), unless another Incoterm® 2020 is agreed in writing between the Parties pursuant to article 1 of these T&Cs.

Any responsibility, risk of loss or damage for each sale of product is transferred to the Buyer as in accordance with the definition of the agreed Incoterm® 2020 for such sale. Immediately upon receipt of the product by the Buyer, the Buyer is required to verify and inspect the conditions of the products shipped hereunder, their number and the products references affixed to the parcels.

The Buyer has to inform in writing HTL of any claims for shortages, defects or damages within twenty-four (24) hours and shall, according to the applicable provisions of the French Commercial Code, also confirm those to the carrier by means of a registered letter with acknowledgment of receipt within three (3) working days following the date of delivery. The Buyer notification must include any justification as to the reality of the breaches. If Buyer shall fail to so notify HTL within twenty-four (24) hours after the products have been received by Buyer, such products shall conclusively be deemed conformed to the specifications forming part of these T&Cs and to have been irrevocably accepted by Buyer.

Article 5: RESERVE OF PROPERTY AND PAYMENT

5.1 Reserve of property and Risks transfer

The products remain the property of HTL until complete payment of the price by the Buyer at the agreed payment date as provided in the order confirmation. Notwithstanding the foregoing, risk transfers relating to the product(s) shall take place according to the Incoterm® 2020 related to the shipment of such product(s). Payment is deemed realised at the moment when the due sum is credited in its entirety on HTL’s bank account.

By express agreement, these T&Cs are always subject to the resolutive condition that the payment made by the Buyer is completed by the payment date provided in the order confirmation.

5.3 Payment conditions

Payments must be made within thirty (30) days of the date of invoice issued by HTL unless otherwise agreed in writing with HTL.

5.4 Payment methods and late payment

The prices are provided in the invoice. All payments to HTL should be made by bank transfer. Payment shall be made by Buyer in accordance with the payment schedule provided in the confirmation order. No discount will be granted for early payment.

All sums due by the Buyer shall become immediately payable in the event Buyer fails to pay any of the instalment as provided in the payment schedule. A late payment of more than eight (8) days pursuant to the payment schedule provided in the order confirmation or the implementation of a suspension of payment proceeding of any nature, may lead, without prior notice to Buyer, at HTL’s sole election and without prejudice to any other remedy to the following consequences:

- the return of the unpaid products by the Buyer to HTL, at Buyer’s costs, and cancellation of the order by HTL;
- the right of HTL to retain the first instalments already paid, if any; and
- the right of HTL to suspend any other order placed by Buyer and agreed upon.

Pursuant to the provisions of the French Commercial Code, any late payment shall, without prior notice, lead to the application of a delay interest equal to the interest rate applied by the European Central Bank increased by ten (10) points in addition to a forty (40) euros fixed indemnity for recovery costs.

Article 6: WARRANTY, USE OF PRODUCTS AND FORCE MAJEURE

6.1 General terms

HTL and the Buyer are both professionals in the field of the products. HTL only sells products for professional use which properties and possible applications are described in the products sheets, for an indicative purpose only. It is the Buyer’s responsibility to take all necessary security measures relating to the use of the products based on the information provided for in the “safety data sheets” provided with the products. The Buyer is hereby informed that the use of the products may be subject to a retest date or an expiry date; in such cases, the products retest date or expiry date is mentioned on “technical specification sheets” provided with the products as well as on the labels of the products. The Buyer shall be responsible for complying with such retest date or expiry date. HTL shall bear no responsibility for any use of the products after such retest date or expiry date. The Buyer shall be in any circumstances solely responsible for the choice of products it orders as well as for assuring the said products are addressing its needs.

6.2 Warranty

HTL warrants that the products conform to the specifications forming part of the T&Cs and in accordance with articles 6.3, 6.4 and 6.5 below. The warranty provided under this article 6.2 is exclusive and HTL makes no other warranty, express or implied. HTL neither accepts nor assumes responsibility regarding the adequacy of the product for the Buyer’s or a third party’s purposes (including Buyer’s client(s) purposes in case Buyer is a distributor or reseller). HTL shall not be liable in any event for incidental, consequential, non-consecutive, indirect or special damages of any nature (including operating losses, commercial prejudice, commercial disturbances, lost profits, damage to image, this listing being non-exclusive) resulting from any use of the products including from any failure of the Buyer towards a third party due to this use. By way of derogation from Article 1217 of the French Civil Code, HTL’s sole and exclusive obligation and the Buyer only possible recourse, with regard to the products which have been found, and which have been recognized by HTL, in particular following an investigation performed by HTL competent service, as defective or non-compliant, shall be at HTL’s option either (i) their replacement without charge or (ii) reimbursement of the price of the defective or non-compliant product. Any transport and storage costs are to be borne by the Buyer. HTL’s warranty under this article 6.2 shall be effective provided that Buyer (i) has correctly used the products, (ii) has used the products in accordance with industry standards and practices, and (iii) has used and stored the products in accordance with instructions provided by HTL and (iv) products have been kept in their original packaging.

Any return of product to be replaced in accordance with (i) above shall be accompanied by the packaging of the defective or non-compliant product and shall indicate the batch number as well as the date of delivery or the dispatch date in case Buyer was responsible for the transport of such product.

In any case, the parties acknowledge and agree that the products sold by HTL are made taking into account the specifications described in HTL’s order confirmation and that it is the Buyer’s responsibility to check those specifications and to inform HTL of any error, omission or misinterpretation of such specifications.

In cases where HTL employees visit the Buyer’s premises to investigate the potential defects, any expenses as well as spent time shall be borne by the Buyer, except where there is a proven negligence on HTL part.

All claims pursuant to this article 6 must be brought within six (6) months of shipment of the products, regardless of their nature. Any claim brought after that six (6) months term will be deemed invalid, Buyer expressly waiving its right to introduce such a claim once such six (6) months term is over.

6.3 Sale of standard product

For this article 6.3, “*Standard Product*” shall mean any product which technical specifications are predefined in a standard manner by HTL, prior to any client demand and which is intended to be incorporated by the Buyer (or by Buyer’s client(s) in case Buyer is a distributor or reseller) to a Finished Product (as defined hereinafter). In such cases, HTL shall only be held responsible for ensuring the conformity of its Standard Product with respect to its specifications or its technical documents made available upon request from Buyer. The parties acknowledge and agree that the possible applications of the Standard Product are given for an indicative purpose only. The Buyer shall always be solely responsible for (i) proper storage and choice of the Standard Product, (ii) interactions between the Standard Product and any other products and match between the Standard Product and any expected results including the Finished Product, and (iii) proper use of the Standard Product according to current state of the art and any applicable laws and regulation. The Buyer shall perform any tests and essays to validate any of the aforementioned interactions and matches.

6.4 Sale of specific product

For the purpose of this article 6.4, “*Specific Product*” shall mean any product which technical specifications are specifically defined by HTL to answer to a specific request of the Buyer. In this respect, the Buyer shall check and validate that HTL has taken into account every relevant specifications of the specific request communicated by Buyer to HTL having regard to the Buyer’s (or by Buyer’s client(s) in case Buyer is a distributor or reseller) planned use of the Specific Product. HTL’s sole obligations regarding the Specific Product are those accepted in writing by HTL in the confirmation order. The Buyer shall always be solely responsible for (i) proper storage and choice of the Specific Product, (ii) interactions between the Specific Product and any other products and match between the Specific Product and any expected results including the Finished Product and (iii) proper use of the Specific Product according to current state of the art and any applicable law and regulations. The Buyer shall perform any tests and essays to validate the aforementioned interactions and matches.

For the purpose of these articles 6.3 and 6.4, “*Finished Product*” shall mean the product made by the Buyer (or Buyer’s clients in case Buyer is a distributor or reseller) by incorporating or by using in whatever form, the Standard Product or the Specific Product sold by HTL.

6.6 Force majeure

HTL shall be released from its obligations in the event of force majeure. Shall be considered as “force majeure” any events considered as such by French law. In addition, the following are considered to be “*force majeure*” events: accidents affecting HTL’s production and storage, total or partial supply shortages, failures of the carrier, fires, floods, machinery breakdowns, riots, total or partial strikes, acts of any governmental authority, any legal requirements, acts of third party, acts of terrorism, wars or war conditions, epidemics and quarantine restrictions, any event which might delay or prevent or make economically exorbitant the fulfilment by HTL of its obligations.

Article 7: BUYER’S LIABILITY

Buyer has the responsibility to control the risks resulting from the use of the products and perform all additional research necessary to evaluate the risks induced by the use of said products. Buyer agrees to use and in case Buyer is a distributor or reseller to ensure its clients will use the products pursuant to the instructions given by HTL relating to the use of the product and to not misuse the product in any manner. Buyer represents and warrants for itself and for its clients in case Buyer is a distributor or reseller that it/they shall use all products ordered herein in accordance with article 6, and that no use made by it shall contravene any applicable law or regulation. Buyer agrees to indemnify and hold harmless HTL, its employees, agents, successors, officers, and assigns, from and against any suits, losses, claims, demands, liabilities, costs and expenses (including attorney and accounting fees) that HTL may sustain or incur as a result of any claim against HTL based on fault, negligence, breach of warranty, damage caused, a contract or any other action of contractual or tort liability, as a result of the Buyer or as a result of a third party (including Buyer’s clients in case Buyer is a distributor or reseller), originating directly or indirectly from the use of the products or due to a failure of the Buyer or its clients to perform the obligations contained in these T&Cs. Buyer shall notify HTL in writing within fifteen (15) days from the time when Buyer becomes aware of any incident tied to the use of HTL’s products which results physical or material damages, and Buyer shall fully co-operate with HTL in the investigation and determination of the cause of such accident and shall make available to HTL all statements, reports and tests made by Buyer or made available to Buyer by others (including by Buyer’s clients in case Buyer is a distributor or reseller). The provision of such information to HTL and any investigation by HTL of such information or incident report shall not in any way constitute any acknowledgement of liability by HTL for such incident.

Article 8: INSURANCE

The parties hereby declares that they have contracted and undertakes to maintain in force with insurance companies known to be solvent, insurance policies necessary and sufficient to cover the risks incurred under these T&Cs. HTL may request Buyer’s evidence of the existence of such policies and proof of payment of the corresponding premiums. The parties acknowledge and agree that HTL liability cannot in any case exceed the insurance threshold defined in its insurance policies.

Article 9: DOCUMENT COMMUNICATION AND INTELLECTUAL PROPERTY

Any technical document (modus operandi, instruction sheets, formulations…) of any nature and on any material whatsoever given to the Buyer before and after placing its order are and remain the exclusive property of HTL. All intellectual property rights pertaining to said documents or described in said documents remain the ownership of HTL. The Buyer shall not have any right to reproduce, represent or use in any way such intellectual property rights. The Buyer will not and if applicable will ensure that its clients will not refer to, display or use HTL’s name, logo, trademarks or trade names confusingly similar thereto, alone or in conjunction with any other words or names, in any manner or connection whatsoever, including any publication or any form of promotion, advertising or publicity including related to Finished Product, except with the prior written consent of HTL.

Article 10: CONFIDENTIALITY

The Buyer personally undertakes to keep strictly confidential all HTL’s and HTL’s affiliates information which were and/or will be received by Buyer in connection with the negotiation of these T&Cs, or prior thereto, or that Buyer might receive or when placing orders with HTL (“*Confidential Information*”). Buyer shall not disclose such Confidential Information to any person or entity other than to those employees who have a need to know such information and who are bound by obligations of confidentiality and restrictions on use at least as protective as those provided herein. These obligations of non-disclosure and restrictions on use of the Buyer shall survive any termination or expiration of these T&Cs and shall continue in effect until such Confidential Information becomes part of the public domain other than through a breach of Buyer. Any and all Confidential Information disclosed to the Buyer hereunder shall be immediately returned to HTL upon request. Where the Buyer fails to comply with those obligations, HTL may immediately terminate any order placed at that time without prejudice to any claim for damages and interest that HTL may undertake.

Article 11: PERSONAL DATA

Buyer and HTL acknowledge having full and complete knowledge of the obligations of the Regulation 2016/679/EU of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data as well as any other regulations applicable in this field that may be added to or subsequently replaced by it (hereinafter “*Personal Data Regulation*”) which apply to them in their respective status of independent data controllers in their respective capacity as independent data controllers of the personal data that they exchange in the course of performance of these T&Cs, specifically the business contacts information of the Buyer and HTL, for the purposes of their commercial relationships with each other. Consequently, the Buyer and HTL shall take, for their own activity, any appropriate measures to ensure the compliance with the Personal Data Regulation, in particular (i) insert in their respective records of processing made under their respective responsibility in particular the subject and the duration of the processing, its nature and its purpose as well as the type of personal data and the categories of concerned data subject according to the Personal Data Regulation; (ii) make sure that the information notice to data subjects is easily accessible and easily understandable and that such information provides categories required by the Personal Data Regulation; (iii) to comply with any request by a data subject to exercise his/her rights of access, modification, deletion, if any limitation, opposition or portability, even withdrawal of his/her consent; (iv) take all sufficient technical and organizational safeguards concerning notably the personal nature of personal data and the risks implied by the processing in order to preserve a high level of security and confidentiality of these data and, in particular to prevent them from being altered, destroyed or lost and especially from being disclosed to unauthorized persons.

Article 12: APPLICABLE LAW AND JURISDICTION

These T&Cs, and all resulting disputes and claims o shall be governed by French Law, excluding its conflict of law principles. Any dispute arising between HTL and the Buyer concerning or resulting from the existence, validity, interpretation, performance and the termination of these T&Cs (or one particular stipulation thereof) which the parties are unable to resolved between themselves within thirty (30) days of the notification of the dispute by one of the parties shall be submitted to the exclusive jurisdiction of the competent court of Rennes (France) notwithstanding the plurality of defendants or the activation of guarantees.