



Lonza Capsules & Health Ingredients (“LONZA CHI”)

TERMS & CONDITIONS of SALES

English version takes precedent. Any language version is for reference only.

- Applicable Conditions.** These Terms and Conditions apply to all sales of all hard empty capsules, liquid filled capsules, equipment and spare parts, health ingredients and/or services (collectively, the “Products”), by LONZA CHI to the buyer following receipt of orders made by the buyer and accepted by LONZA CHI as evidenced by buyer’s receipt of LONZA CHI’s order confirmation. Changes to order(s) are only possible with the express written agreement of LONZA CHI. Any general terms and conditions drawn up or used by the buyer solely apply if LONZA CHI expressly accepts these in writing. In the absence of such express written acceptance, the Terms and Conditions shall always prevail over the general or special terms and conditions of the buyer. In the event of contradiction between these Terms and Conditions and the special terms and conditions, or terms and conditions of sale, supply or payment that are the subject of the framework or supply agreement, the special terms and conditions, or terms and conditions of sale, supply or payment shall prevail over the Terms and Conditions.
- Delivery Terms.** Unless otherwise agreed in writing by LONZA CHI or set forth herein, LONZA CHI will deliver the Products CIP (Incoterms 2020) LONZA CHI’s facility; shipment of the Products is at the buyer’s sole cost and risk. Risk and title transfer upon delivery. Buyer is responsible for taking out an insurance policy covering loss or damage to the Products or third parties at the time of delivery by LONZA CHI (the “Delivery Date”). If LONZA CHI arranges shipment for the buyer, buyer will pay LONZA CHI for the cost of insurance and freight prepaid by LONZA CHI. LONZA CHI shall use reasonable commercial efforts to meet the requested delivery dates for Products; time for delivery, however, is not of the essence and LONZA CHI shall not be liable for any failure to meet any such delivery date. LONZA CHI will indicate to buyer an expected delivery date in its order confirmation, which buyer acknowledges is a good faith estimate. LONZA CHI expects the actual delivery date to be not more than 14 business days after the expected delivery date indicated in the order confirmation. If it is impossible to deliver within such date, for any reason whatsoever except in case of a deliberate intent of deception, the buyer is not entitled to cancel the order in whole or in part, nor claim compensation for any loss incurred. The buyer expressly waives any other recourse, in particular the award of any form of compensation. All Products shall be delivered within twelve months from the date of invoice under which they are being shipped. LONZA CHI shall only be obliged to perform the services expressly agreed in writing and subject to the corresponding contractual terms.
- Specifications.** LONZA CHI warrants that, on the delivery date, the Products comply with the quality standards at the time of the order as described in the 'Technical Reference File' for hard capsules and LONZA CHI available specifications for the rest of the Products. With respect to empty capsules, LONZA CHI warrants that at the date of delivery the empty capsules will comply with the quality standards set forth in LONZA CHI’s general specifications in the LONZA CHI Technical Reference. The ideal storage conditions are a relative humidity of 50% and a temperature of 20°C. LONZA CHI recommends that the Products be stored in the closed containers in which they are dispatched in areas where the ambient temperature is 15°C to 25°C and the relative humidity 35% to 65%. LONZA CHI shall not be liable for any defective or non-conforming Products if the above storage conditions are not followed. With respect to equipment and spare parts, LONZA CHI warrants that at the date of delivery the equipment and/or spare parts shall conform to the specifications stated in the operating manual for the equipment subject, where applicable, to accepted variations within industry standards, and shall be equal in quality to similar equipment and parts. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH, LONZA CHI GIVES NO WARRANTIES, GUARANTEES, CONDITIONS OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, AND LONZA CHI HEREBY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. The Products are sold on the condition that buyer or any other user shall be responsible for all intellectual property decisions concerning the finished product and buyer shall carry out its own independent tests to determine the suitability of the Products for its purpose and that all risks arising out of the use of the Products are assumed by the buyer and the user, since the conditions of use are beyond LONZA CHI’s control. LONZA CHI is therefore not liable for damage caused by unsuitable or injudicious use of the Products.
- Quantity Variance.** Having regard to the specific nature of the production process of the Products, LONZA CHI reserves the right to supply a greater or smaller quantity of capsules to the buyer than the ordered quantity, with the proviso that the difference between the ordered and supplied capsules can be a maximum 10% (more or less).
- Defective Products.** Buyer must notify LONZA CHI’s Customer Services Department of any visible defects in the Products such as wrong amount or wrong Products in writing within 10 days after delivery of such Products to the buyer or such Products will be deemed accepted by buyer. Buyer must notify LONZA CHI’s Customer Services Department latent defects in the Products in writing within 90 days after delivery of such Products. Products may not be returned without the prior examination of a representative sample and without LONZA CHI’s express, prior, written authorization. The buyer is always responsible for the risks of any return. Buyer’s sole and exclusive remedy, and LONZA CHI’s sole and exclusive liability, for defective Products, or for its breach of these Terms and Conditions shall be, at LONZA CHI’s discretion, (i) replacement of the Products; or (ii) refund of the purchase price of the Products in relation to which the non-conformance or breach has occurred.
- Trademarks.** Whether empty capsules with the color combinations, text or logo specified by the buyer are free to be used for marketing as such or with any products is beyond LONZA CHI’s knowledge, control and responsibility. No

warranty, guaranty or representation is given by LONZA CHI as to the absence of any trademark, patent or other intellectual property right or concerning compliance with regulatory requirements. No statement made by LONZA CHI shall be construed to be a recommendation or approval to infringe any patent or trademark or as an opinion regarding non-infringement of any patent or trademark or other intellectual property. Buyer is not permitted to use LONZA CHI's trademarks without LONZA CHI's express written consent.

7. **Force Majeure.** Either party shall be excused from the performance of its obligations in the event such performance is prevented by conditions constituting force majeure (including but not limited to acts of God, regulation or law of any government, war, civil commotion, strike or other labor disturbance, epidemic, failure of production facilities by fire, earthquake or storms, or non-availability of raw materials), and such excuse shall continue so long as such conditions continue.
8. **Buyer Representations and Warranties.** Buyer represents and warrants that: (a) it will comply with all applicable laws, regulations, and ordinances; (b) the Products will not be used in the production, encapsulation, packaging or marketing of any product which is in violation of any federal, state or local law or with any person or entity on any applicable government sanction, export control, restricted party or denial list without a license or otherwise in violation of applicable law or regulation; (c) it is responsible for communicating with any governmental authority concerning Products, including, without limitation, with respect to the registration, classification or notification of Products, or the use, packaging, labeling, distribution, marketing, labeling, promotion, sale or disposal of the same or any adverse events related to Products (for the avoidance of doubt, LONZA CHI may interact with governmental authorities for the purpose of fulfilling its obligations hereunder); (d) storing and handling Products in appropriate conditions following its delivery; (e) determining that the specifications for Product to permit its sale in each country in the world and (f) it is not, and will not, in connection with any Product, do business with or sell directly or indirectly to the Government of Iran, the Iranian Military or Iranian military or law enforcement purchasers or importers, Iran's petroleum sector or Iran's development of weapons of mass destruction, Iranian Specially Designated Nationals, or entities considered by the U.S. to be supporters of terrorism or proliferators of weapons of mass destruction (which entities can be identified by accessing the U.S. Office of Foreign Asset Control "Blocked Persons and Specifically Designated Nationals List" <http://sdnsearch.ofac.treas.gov/>); and it is aware of and, hereby confirms its compliance with, all applicable economic sanctions and export control laws and regulations, including, without limitation, any applicable U.S. economic sanctions and export controls. Buyer shall conduct all such activities at all times in compliance with applicable laws. The parties acknowledge and agree that LONZA CHI has no control, role, or other form of influence in Buyer's use, packaging, labeling, distribution, marketing, promotion, sale and disposal of Products, nor does it control or influence over any payments or transfers of value that may be made by buyer to health care professionals, health care institutions, or any other customer or third party. Buyer is responsible for participation and compliance in all government health care programs and any rebate liability, mandatory pricing, or reporting obligations resulting therefrom. Buyer represents that it shall comply with the requirements of the Iranian Transactions and Sanctions Regulations ("ITSR"), 31 C.F.R. Part 560, at all times.
9. **Liability and Indemnity.** Except in the event of fraud or deliberate intent, in no event shall LONZA CHI or its affiliates be liable to buyer or its affiliates for any incidental, indirect, punitive, exemplary, special or consequential damages of any kind however caused (including fault or negligence) arising out of or in connection with any purchase order related to the subject matter hereunder, including without limitation, loss of profits, goodwill or business interruption. LONZA CHI's aggregate liability arising out of or in connection with any purchase order related to the subject matter hereunder shall be limited to the aggregate fees received by LONZA CHI under the purchase order creating such liability. Further, buyer agrees to unconditionally indemnify, defend and hold harmless LONZA CHI and its officers, directors, employees, agents, consultants, successors and assigns from and against any losses, damages (including statutory damages), liabilities, obligations, (including without limitation incidental, consequential, special or indirect damages (including loss of revenue, diminution in value or any damages based on any type of multiple)), deficiencies, actions, judgments, suits, interest, awards, penalties, forfeitures, fines, levies, disbursements, costs or expenses of whatever kind, including reasonable attorneys' fees and expenses ("Claim") that may be imposed on, incurred by, appropriated from or asserted against LONZA CHI in any way relating to or arising out of (a) the violation of any third party's trade secrets, trademarks, copyright, patent or other proprietary rights related to the subject matter hereunder; (b) any misrepresentations, omissions or breach of any warranty or representation of buyer herein; (c) the gross negligence or willful misconduct of buyer or (d) the manufacture, packaging, sale, marketing, labeling, promotion, use, distribution or disposal of the finished product; except, in each case, to the extent such Claims are attributable to the gross negligence or willful misconduct of LONZA CHI.
10. **Confidentiality and Data Protection.** Buyer acknowledges that LONZA CHI's information relating to Products, services, equipment and capsule filling that LONZA CHI shares with buyer is confidential and proprietary to LONZA CHI, and buyer agrees to maintain the confidentiality of any such information disclosed by LONZA CHI for a period of ten (10) years from the date of disclosure and to use such information only for the purpose of filling LONZA CHI capsules, unless such information constitutes trade secrets, in which case buyer must maintain the confidentiality of such information so long as it remains a trade secret. Buyer will safeguard and protect LONZA CHI's confidential and proprietary information in the same manner it protects its own similar information, and in no event utilizing less than reasonable industry practices. Buyer acknowledges that LONZA CHI's personal data is being treated in compliance with the requirements of all applicable privacy laws, including the European Union's General Data Protection Regulation.
11. **Intellectual Property.** All rights and title to inventions and intellectual property conceived and reduced to practice by LONZA CHI in the course of performing its obligations hereunder shall belong to LONZA CHI. For purposes of clarity,

the term “inventions” shall encompass, without limitation, any new process, systems, equipment, or any improvement thereon, and components and/or intermediate substances, whether patentable or not, made by LONZA CHI in connection with or related to the Products.

12. **Price.** The price for the Products and conditions of sales are subject to review from time to time by LONZA CHI to reflect any changes in the costs of energy, materials or labor, or market conditions. Prices invoiced will be those in effect at the time of shipment.
13. **Payment.** All Products shipped and invoiced shall be payable to LONZA CHI within thirty (30) days from the date of invoice. For the Products are sold by a LONZA CHI US entity, Buyer shall make payment pursuant to the terms of 31 C.F.R. § 560.532. LONZA CHI reserves the right to invoice buyer for the Products on or after the date Products are available for delivery to buyer (the “Sale Date”); provided however that LONZA CHI shall be responsible for taking out an insurance policy covering loss or damage to the Products from the Sale Date to, but not including, the Delivery Date. Payment shall be made in the currency shown on the invoice. LONZA CHI reserves the right to charge buyer for warehousing products held for buyer beyond the agreed upon delivery date and shall issue a separate and additional invoice for such warehousing to buyer. If the buyer fails to pay the invoice by its due date, the buyer will automatically and without formal notice: a) be liable for late payment interest calculated from the due date of the invoice; b) be liable for a lump sum compensation of 10% of the total invoice amount. Payments made by the buyer will in the first place be used to pay the costs due from the buyer, then the interest payments and only in the final instance to pay the principal. If the buyer continues to fail to pay a due and payable invoice, then all outstanding invoices will automatically fall due and become payable without the need for prior formal notice, the foregoing without prejudice to the right of LONZA CHI to dissolve the agreement without recourse to a court of law without prior notice of default against the buyer and to claim compensation. In the event that the buyer ceases payments or becomes bankrupt, every obligation to supply by LONZA CHI shall cease and all outstanding invoices shall automatically fall due. LONZA CHI is entitled to transfer its claims against the buyer to third parties. Setting-off of debts by the buyer is expressly excluded. LONZA CHI may at any time and even if there are concurrent claims, including in the event of bankruptcy or judicial restructuring of the buyer, proceed to set off all or some reciprocal credits or debts existing between LONZA CHI and the buyer. Such set-off may be performed regardless of the form or the object of the debts and claims, regardless of the currency or regardless of whether the reciprocal debts or claims are due or not.
14. **Severability.** If any provision or part of a provision in these Terms and Conditions or the sales agreement to which these Terms and Conditions apply is null and void or unenforceable, the remaining provisions of these Terms and Conditions or the sales agreements to which the Terms and Conditions apply shall remain in force undiminished. If the case arises, the parties shall in good faith agree on a provision that approaches as closely as possible the intended legal effect of the provision or part thereof that has been declared null and void or unenforceable.
15. **Governing Law.** These Terms and Conditions and the orders, quotations and sales agreements to which these Terms and Conditions apply are governed by New York (USA) law and subject to the exclusive jurisdiction of the courts of New York (USA) if the Products are sold by a LONZA CHI US entity. For all other sales, these Terms and Conditions and the orders, quotations and sales agreements to which these Terms and Conditions apply are governed by Swiss law and the exclusive jurisdiction of Basel courts. The Vienna Sales Convention is expressly excluded. The United Nations Convention on Contracts for International Sales of Goods shall not apply to this Agreement.
16. **Anti-Corruption.** Buyer represents and warrants that it will not give or offer anything of value, including cash, personal favors, entertainment, meals and travel, political and charitable contributions, business opportunities, or medical care, directly or indirectly, to any government official or any commercial party for the purpose of improperly obtaining or retaining a business advantage. Buyer further represents and warrants that buyer will not solicit or accept payments. Buyer represents and warrants that it will comply with all applicable anti-corruption laws, including the UK Bribery Act, United States Foreign Corrupt Practices Act, and all local equivalents.
17. **Sanctions.** Buyer represents and warrants that it is not subject to any economic sanctions and the buyer will not engage in any business or dealings with embargoed countries, blocked persons, or individuals or entities listed as a sanctions target by applicable legislation; or facilitate transactions with third parties that involve embargoed countries, blocked persons, or individuals or entities listed as a sanctions target by applicable legislation. Buyer represents and warrants that it will comply with all applicable export control and sanction laws and regulations, including the U.S. Department of the Treasury’s Office of Foreign Assets Control sanctions regulations, the U.S. Export Administration Regulations, the UK Export Control Act of 2002, the E.U. sanctions regulations, and all local equivalents. Buyer shall complete the End-User/End-Use Declaration (EUD) provided by LONZA CHI; failure to complete the EUD shall result in blocked shipment(s).

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For older versions of our Global Terms & Conditions for Capsules and Health Ingredients, please check:
<https://www.capsugel.com/sales-terms-conditions>.