

Trade Distribution Agreement

Concluded between the company

Company name

Address

Postal Code and Place

“Manufacturer” on one hand and

**DAILY SERVICE GMBH
GEWERBESTRASSE 6
A-4481 ASTEN**

“Distributor”, on the other hand, as follows:

Preamble:

The manufacturer is a producer of high-quality food products. The distributor is a logistics service provider specialising in temperature-controlled and sensitive logistics and has been storing, picking, and transporting temperature-controlled goods on a large scale for years. This agreement regulates the distribution of the goods produced by the manufacturer in the contractual territory. It is noted that the distribution of the goods is designed so that legal ownership of the goods passes to the distributor, but economic ownership remains attributed to the manufacturer, who bears all risks associated with distribution. Therefore, the manufacturer remains the economic owner of the goods.

§ 1 Contractual territory, subject matter of contract and ownership of the transferred asset:

1. Contractual territory:
Contractual territory is Austria.
2. Subject matter of the contract:
With effect from **[date]**, the manufacturer shall assign the sale to the distributor in its own name for the account of the manufacturer of the products to be agreed upon in the contract territory. The goods must be reported to the distributor in writing at least 14 days before the first intended delivery, stating the article master numbers and price per trading group.

3. Ownership of goods:
The manufacturer shall remain the owner of the goods taken over for the duration of their storage with the distributor. A corresponding warehouse contract must be concluded with the Distributor (Annex 1).
4. The distributor shall be entitled to remove stored goods from the warehouse for delivery to customers and to transfer title to them in fulfilment of the transactions to be concluded with them. The distributor shall be entitled to withdraw goods, and a purchase contract shall be concluded between the manufacturer and the distributor upon withdrawal of these goods.

§ 2 Insurance obligation:

The distributor ensures the goods against damage or loss during transport (All-Risks-Shipping Policy – ASÖP)

As the insurer has an obligation to minimise damages, it has been agreed that surplus goods will be disposed of in accordance with legal requirements for the kitchens specified by the insurer. The valuation basis for a claim is 50% of the price of the goods (net sales price). If the manufacturer disagrees with such disposal, 35% of the value of the goods would have to be paid to the insurer by the manufacturer as compensation.

§ 3 Responsibilities of the Distributor:

1. The distributor may only sell the goods from the consignment warehouse within the scope of its ordinary business operations. The sale of the provided goods shall be made in the distributor's own name for the account of the manufacturer, at the prices and terms per trading group agreed between the manufacturer and the distributor, as specified in Section 6.
2. The distributor shall be entitled to grant the customer a payment term of 30 days net from the invoice date; other payment terms shall be agreed upon jointly. Deviating payment terms shall be mutually agreed upon. It is noted that the distributor is authorised to collect the receivable from the sale of the goods to the retail sector.
3. Furthermore, the distributor provides all services from the receipt of the goods at its warehouses as per the warehouse contract. The picking and distribution of the goods to the customer are carried out according to a separate cooperation agreement (with the retail sector) on behalf of the retail group (trade logistics) or on behalf of the manufacturer (industrial logistics). These services are remunerated according to the cooperation agreement.

4. Due to the economic ownership of the manufacturer, the distributor hereby assigns its claims arising from the sale of consignment goods to the manufacturer, together with all ancillary rights, regardless of whether the goods are sold unprocessed, processed, or combined with other deliveries or services to one or more customers. The distributor is not entitled to contractually exclude the assignability of its claims arising from the sale of consignment goods. Upon the manufacturer's request, the distributor shall notify the third-party debtor of the assignment and provide the manufacturer with all necessary information and documents required to assert the manufacturer's rights. On the other hand, the parties agree that the risk of default on receivables lies entirely with the manufacturer, and the manufacturer has no claims against the distributor.
5. It is noted that the distributor is not obligated to engage in active sales activities, advertising campaigns or any other sales promotion initiatives.
6. Daily Service acts neither as a manufacturer nor as a distributor on the market, thereby exempting itself from the legal obligations associated with these roles.
7. Outgoing obligations are only relevant for Daily Service insofar as they apply in terms of the company's own control measures and the supporting duty to provide information in the event of food investigations by the food police.
8. Proposals for the disposition of frozen goods:
For the disposition of goods, the distributor forwards disposition proposals to the manufacturer on request. For optimisation purposes (e.g., freight costs or to extend reach), the manufacturer may deliver the performance obligation agreed with the customer. The distributor reserves the right to remove overstock quantities from the automated picking warehouse from a sales-related range of 3 weeks and to store temporarily at a storage system partner in accordance with free capacities against separate invoicing or to store them there directly when overstock quantities are delivered. The distributor will be happy to offer transport, seasonal or production-related stockpiling beyond the 6-week storage range required for order picking, subject to timely planning and free storage capacity.

§ 4 Responsibilities of the manufacturer:

1. The manufacturer is obligated to replenish the inventory until the respective item is delisted. The manufacturer's delivery issues will be communicated to the respective retail group. The manufacturer is liable to the retail group for non-replenishment and shall indemnify the distributor from any damages or claims arising thereof.
2. Delivery to the Distributor occurs after the conclusion of the corresponding warehouse contract, adhering to the delivery terms.

§ 5

The distributor is not liable for the performance of the customer's execution transaction. The manufacturer cannot assert any claims against the distributor in this regard.

§ 6

The manufacturer has to report all changes in the product range or necessary price corrections with confirmation from the respective retail group 14 days before the change. In case corrections are received later, the distributor accepts no liability for delivery or price differences.

§ 7 Liability and warranty as well as notification obligations:

Delivery is free to the distributor's warehouses according to the warehouse contract.

The distributor is liable for any loss and/or damage to the goods taken over from the time of acceptance until delivery to the customer.

The manufacturer assures the distributor of full indemnification for the period during which the distributor is liable to customers under statutory provisions for damages, warranty claims, or product liability, provided that these customer claims do not arise from the breach of the distributor's contractual obligations. Therefore, the manufacturer undertakes to indemnify and hold the Daily Service completely harmless against any claims arising from the execution of an execution transaction, unless the claims asserted against Daily Service result from a product defect, the cause of which lies in a poor fulfilment of the performance obligation owed by the Daily Service to the manufacturer.

§ 8 Invoicing, Terms and Conditions and Cut-off Regulation:

The distributor sells and delivers the goods in its own name on behalf of the manufacturer. To do so, the distributor must notify the manufacturer at periodic intervals (currently once a week) by providing a written statement of the quantities of goods delivered to each customer.

This debit note serves as a fulfilment notice. Therefore, the manufacturer is entitled to invoice the distributor for the goods listed in the execution notice. The invoice must comply with the relevant provisions of the Value Added Tax Act. Value-added tax must be shown separately.

The invoice amount shall be due for payment net without any deductions within 5 days after receipt of payment for the execution transaction by the distributor. All bank charges are borne by the manufacturer. If only the distributor receives partial payments from the purchaser of the goods, the amounts received shall be divided in the ratio of the invoice total of the manufacturer to the distributor, and the distributor shall pay the amount corresponding to this ratio of the invoices to the manufacturer within the same period.

It is noted that the remuneration for the services to be provided by the distributor shall be paid by the customer of the goods according to the units of goods purchased. The distributor is entitled to withhold this “distribution price” for its own account.

The manufacturer expressly agrees that the distributor establishes its own contractual claims against the customer for the distribution services covered by this contract.

The distributor is entitled to offset claims arising from the logistics or warehouse contract concluded with the manufacturer against the manufacturer’s claims for the transfer of collection amounts from the execution transactions and to withhold the amounts due for payment from the logistics or warehouse contract from each collection.

§ 9 Exclusivity

Exclusivity is explicitly not agreed upon.

§ 10 Choice of Law, Jurisdiction:

Unless otherwise stipulated in this contract or mandatory legal provisions, the Austrian Freight Forwarders' Standard Terms and Conditions (AÖSp) in the current version shall apply to this contract and to all contracts concluded within the scope of this contract.

Furthermore, Austrian law shall exclusively apply to this contractual relationship. Any reference or application of international private law or foreign legal systems is disregarded. Insofar as the Vienna Sales Convention (Federal Law Gazette 1988/96) would be applicable to this contract, its applicability is expressly excluded.

For all disputes arising from this agreement and the ongoing business relationship, the parties agree to the jurisdiction of the competent court in Linz.

§ 11 Begin, Duration and Termination:

The contractual relationship begins on the [date] and is concluded for an indefinite period. The contractual relationship may be terminated at any time with a notice period of 8 weeks to the end of the quarter by registered letter.

If the warehouse contract is terminated for any reason, the present contract shall also be terminated at the same time without the need for separate notice.

Furthermore, either party may terminate the contractual relationship immediately for a significant reason that renders the continuation of the contract unreasonable for that party.

Such significant reasons include in particular:

- a) The opening of bankruptcy or composition proceedings against the other contracting party or the absence of such proceedings solely due to lack of cost-covering assets.
- b) The violation of material provision of the contract if the contractual condition is not restored within one month after written notice by the respective other contracting party.

§ 12 Miscellaneous:

There are no oral side agreements to this contract. Amendments or supplements to this contract require the written form. Exemptions through verbal agreements are not effective.

In the event of discrepancies between this distribution contract, the general terms and conditions of delivery and the warehouse contract, it is agreed that the content of the distribution contract takes precedence over the warehouse contract and the general terms of delivery.

In the event that one or more provisions of this contract are invalid, the validity of the remaining contractual provisions shall not be affected. In such a case, the parties undertake to agree promptly on a provision that comes as close as possible economically to the ineffective provision. The parties also commit to fully transfer rights and obligations from this contractual relationship to any individual or joint successors.

Furthermore, the manufacturer shall reimburse all expenses and costs incurred by the distributor for the benefit of the manufacturer to the extent deemed necessary under the circumstances.

This English translation is provided for informational and comprehension purposes only. In the event of any inconsistencies or discrepancies between the English translation and the original version in German, the original version in German shall prevail and shall be authoritative for the interpretation and enforcement of this agreement.

TRANSLATION