

GENERAL TERMS AND CONDITIONS OF PURCHASE

IMCD DEUTSCHLAND GMBH

Version 24/09/2019

Article 1 GENERAL

1.1. Definitions:

- Contract:** Any agreement between IMCD and the Supplier in connection with the purchase of products by IMCD.
- IMCD:** IMCD Deutschland GmbH, with its registered office at Konrad-Adenauer-Ufer 41-45, 50668 Cologne, Germany.
- Supplier:** Any legal or natural person that aims to conclude, concludes or has concluded a contract with IMCD, as well as any legal or natural person from which IMCD purchases or has purchased products and is an entrepreneur within the meaning of § 14 BGB (German Civil Code) at the time of conclusion of the Contract.
- REACH Regulation:** Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18th December 2006 concerning the Regulation, Evaluation, Authorisation and Restriction of Chemicals, and latest amendments.

- 1.2. Unless expressly agreed otherwise in writing, all orders placed by IMCD shall be subject exclusively to the following General Terms and Conditions of Purchase. This applies to all future business with the Supplier even without any specific additional reference thereto.
- 1.3. General terms and conditions of the Supplier apply only if they are expressly and under specific reference thereto accepted in writing by IMCD. Any reference of IMCD to communications/letters/order confirmations etc. of the Supplier indicating and/or referring to any such general terms of the Supplier are not to be understood as such agreement of IMCD to such.
- 1.4. Only these General Terms and Conditions of Purchase of IMCD apply even if IMCD while being aware of any general conditions of the Supplier accepts a delivery without reservation.

Article 2 TIMELINESS OF DELIVERY, TRANSPORT, PASSING OF RISK

- 2.1. The delivery dates specified in the purchase order are binding.
- 2.2. Delivery is in time only if the goods arrive at the destination specified by IMCD on the delivery date.
- 2.3. In case of any delay coming up the Supplier will inform IMCD immediately.
- 2.4. Unless there is any other agreement thereto all deliveries are to be made freight-free, customs paid and under risk of the Supplier (DDP according to Incoterms 2010) to the delivery address specified by IMCD. Delivery is to be accompanied by the delivery note (twice), packing list, certificate of analysis according to the product specification agreed and any further documents needed. The risk for loss and damage is with the Supplier until the goods and the documents are handed over at the place of delivery.

Article 3 SUPPLIES FROM COUNTRIES OUTSIDE OF THE EUROPEAN UNION

- 3.1. In case of deliveries from countries outside of the European Union (imports) the Supplier has to specify in the delivery documents whether the goods are duty paid or duty unpaid.
- 3.2. In the case of duty unpaid goods, the Supplier has to submit the following customs clearance documents to the Customer: Freight documents, transit accompanying document T 1, customs invoice, proof of preference such as Form A, EUR.1, A. TR., certificate of origin.
- 3.3. If the goods are delivered duty paid, the proof of customs clearance is to be provided in the shipping documents (ATC number, tax invoice number).

Article 4 PRICES, CONDITIONS OF PAYMENT

- 4.1. The prices agreed are fixed prices. Any subsequent price increases are binding only if agreed to in writing by IMCD.
- 4.2. Unless agreed otherwise, all prices are to be understood as DDP delivery address and including packing materials.
- 4.3. All invoices of the Supplier have to carry the order number of IMCD and all information needed for IMCD to claim deduction of VAT input tax; in case of missing information needed to claim deduction for VAT input tax the respective invoice of the Supplier is not due for payment.
- 4.4. Unless otherwise agreed, payments by IMCD shall be made within 30 days without deduction. If IMCD already pays within 15 days, IMCD is entitled to 3% discount deduction on the net amount of the invoice. The payment periods begin with receipt of the proper delivery and receipt of the invoice or equivalent payment statement. In case of a necessary correction of the invoice due to an error within the area of responsibility of the Supplier, the payment period begins with the receipt of the proper invoice.
- 4.5. The Supplier may not transfer any claims against IMCD without the prior approval in writing.

Article 5 PRODUCTS ASSESSMENT; REACH AND CLP REGULATION; QUALITY ASSURANCE SYSTEM; SUPPLIER'S STATEMENT

- 5.1. The Supplier owes the absence of defects in the goods to be delivered as well as the existence/compliance with all agreed product specifications. In particular, he shall be responsible for ensuring that his deliveries correspond to the latest state of the art, are performed by qualified personnel and comply with all relevant legal provisions. This includes in particular compliance with the Product Safety Act.
- 5.2. The Supplier guarantees that its products comply with all provisions of the REACH Regulation and Regulation (EC) No. 1272/2008 on the classification, labelling and

packaging of substances and mixtures (CLP Regulation). This includes in particular the pre-registration or registration of the substances contained in the product and to be registered according to the REACH Regulation, the unsolicited provision of a safety data sheet according to Art. 31 REACH Regulation or the information according to Art. 32 REACH Regulation and the classification, labelling and packaging according to CLP Regulation. This also applies if it is not located in the European Economic Area (EEA). If the Supplier is not domiciled in the EEA, he shall ensure that an Only Representative according to Art. 8 REACH Regulation fulfils the obligations according to the REACH Regulation.

- 5.3. The Supplier shall set up and maintain a documented quality assurance system which is suitable in type and scope and which corresponds to the latest state of the art. He must keep records, in particular of quality inspections, and make these available to IMCD immediately upon request.
- 5.4. The Supplier must be and remain the owner of a regularly renewed ISO 9001 certification and provide IMCD with proof of this upon request.
- 5.5. The Supplier shall ensure the traceability of his products at all times. Furthermore, he shall take appropriate measures to ensure that he can immediately determine which other products may be affected if a defect occurs in one of his products.
- 5.6. The Supplier is obliged to submit the Supplier declarations in accordance with Regulation (EC) No. 1207/2001 and to confirm the preferential status of the products. The indication of the country of origin on the invoice is not sufficient for this purpose. The Supplier is responsible for the correctness of the Supplier declaration and is liable to IMCD for any damages. The submission of a long-term Supplier declaration is permissible; at the request of IMCD, however, a Supplier declaration is to be submitted in any case.

Article 6 OBJECTION TO DEFECTS

- 6.1. The obligation of IMCD to inspect is limited to defects which become apparent during the incoming goods inspection under external inspection including the delivery documents (e.g. transport damage, wrong and short deliveries) or which are recognizable during a quality inspection by IMCD in a random sampling procedure. In these cases, the objection (notice of defects) is immediate if IMCD sends it within eight working days of receipt of the goods.
- 6.2. Without prejudice to article 6.1, the obligation to give notice of defects remains for later defects. If defects are discovered later, the period for notification of defects shall be three working days from discovery.

Article 7 WARRANTY

- 7.1. In the case of defects, IMCD is initially entitled to demand subsequent performance in accordance with the law. The choice of the type of supplementary performance lies with IMCD. If the supplementary performance does not take place within a reasonable period of time, if it has failed or if it was not necessary to set a deadline, IMCD can assert the further legal warranty rights in case of defects.
- 7.2. Warranty claims expire three years after delivery, unless the law provides for a longer period. The claims specified in § 445a para. 2 BGB (German Civil Code) shall expire at the earliest five years after delivery.

Article 8 PATENT INFRINGEMENT

The Supplier shall be liable for ensuring that patents, licences or industrial property rights of third parties are not infringed by the delivery and use of the delivery items. Any licence fees shall be borne by the Supplier.

Article 9 EXEMPTION FROM PRODUCT LIABILITY

The Supplier exempts IMCD from all claims for compensation of third parties from product and producer liability for damages, the cause of which lies in the area of responsibility of the Supplier and for which he himself is liable towards third parties. In such cases of damage, the Supplier is also liable for the costs of a recall campaign that becomes necessary and for such compensation payments, including the reasonable legal costs incurred in this connection. This also includes those services which IMCD, in coordination with the Supplier, has undertaken to provide in court or out of court for the full or partial settlement of its own product liability.

Article 10 PROPERTY RESERVATION OF THE SUPPLIER; MANUFACTURER CLAUSE

- 10.1. The transfer of ownership of the goods to IMCD takes place unconditionally and regardless of the payment of the purchase price by IMCD.
- 10.2. If, notwithstanding Article 10.1, a reservation of title of the Supplier should exist in an individual case, the reservation of title of the Supplier shall expire at the latest with the payment of the purchase price by IMCD for the respective delivered goods.
- 10.3. In the case of Article 10.2, IMCD shall be entitled in the ordinary course of business even before the purchase price has been paid to
- to resell the goods with advance assignment to the Supplier IMCD of the resulting purchase price claim; all other forms of retention of title are excluded.
 - authorized to process, transform, combine, mix and blend goods subject to the Supplier's retention of title. This always happens for IMCD itself as manufacturer in its own name and for its own account of IMCD. IMCD thereby acquires ownership at the latest in accordance with the respective legal regulations.

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Article 11 APPLICABLE LAW AND COMPETENT COURT

All contracts and these General Conditions of Purchase and Order, including Article 11, and all non-contractual obligations arising out of or in connection with the contract or these General Conditions of Purchase and Order shall be governed exclusively by German law. The application of the UN Convention on Contracts for the International Sale of Goods as well as German International Private Law is expressly excluded. All disputes in connection with this agreement are subject to the Rules of Arbitration of the "Deutsche Institution für Schiedsgerichtsbarkeit e. V.". (DIS) shall be finally settled under exclusion of the ordinary legal process. The following shall apply in this respect:

- a) The place of arbitration shall be Cologne.
- b) The arbitral tribunal shall decide in accordance with applicable law.

- c) The number of arbitrators is three.
- d) The language of the arbitration proceedings is German.
- e) The applicable substantive law is German law.
- f) The arbitral tribunal may not publish the arbitral judgment.

IMCD may also submit disputes within the meaning of this Article 11 to the competent state court in Cologne, Germany, for decision.

IMCD is also entitled to such a right of choice if the Supplier intends to sue IMCD. In the case of an intended action, the Supplier can request IMCD to exercise the right of choice. The right of choice expires if IMCD does not exercise its right of choice against the Supplier within 14 days after the request.

