

GENERAL TERMS AND CONDITIONS OF SALE UAB "IMCD BALTICS"



Article 1 GENERAL

1.1 Definitions:

Contract: General terms and conditions and Special terms of Sale-purchase contract and any agreement, annexes and changes and/or legal act of mentioned terms between IMCD and the Purchaser in connection with the purchase of products by the Purchaser from IMCD.

IMCD: UAB "IMCD Baltics", having its registered office at Ukmerges str. 120-1, LT-08105 Vilnius, Lithuania.

the Purchaser: any legal or natural person that wishes to conclude, concludes or has concluded an Contract with IMCD, as well as any legal or natural person to which IMCD supplies or has supplied products.

REACH: Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Regulation, Evaluation, Authorisation and Restriction of Chemicals, and latest amendments.

Products: The term „Products” as used herein shall mean all assortment of products, which are sold by IMCD, including the newly introduced brands or brand variants during the Contract validity.

Terms and Conditions: these general terms and conditions of sale of IMCD.

1.2 Unless expressly agreed otherwise in writing, these Terms and Conditions shall apply to all offers and quotes from IMCD, to the Contract and to all acts and legal acts between IMCD and the Purchaser.

1.3 Departures from these Terms and Conditions are only valid if they were expressly agreed in writing.

1.4 The applicability of general terms and conditions used by the Purchaser or any other general terms and conditions is expressly ruled out.

1.5 The Lithuanian text of these Terms and Conditions shall always be final and shall prevail over all translations in the event of a conflict.

1.6 The text of the Contract shall prevail over these Terms and Conditions in the event of a conflict.

Article 2 OFFERS AND AGREEMENTS

2.1 All offers, quotes and price proposals from IMCD will be subject to contract at all times and may be amended or revoked at any time, regardless of whether they contain a period for acceptance.

2.2 Samples and models shown or provided shall serve as indications only, without the products having to comply with those samples and models. Minor variations in stated size, weight, number, colour and other product properties shall not be considered to be defects. Commercial practice shall determine whether variations are minor.

2.3 IMCD shall be entitled at all times, before starting or continuing its performance, to require security from the Purchaser for the fulfilment of any of its obligations under any Contract. The security shall be provided in the manner stipulated by IMCD in its sole discretion.

2.4 If the Purchaser has not provided security within 14 days of a request to that effect, in the manner stipulated by IMCD, all amounts owed by the Purchaser to IMCD shall be due and payable in full and immediately, without prior notice of default being required.

Article 3 DELIVERIES

3.1 Unless expressly agreed otherwise in writing, the delivery of products shall be ex-works at such premises as IMCD may designate to the Purchaser from time to time (Incoterms EXW).

3.2 Delivery shall take place in accordance with the definitions of the latest version of the Incoterms. In the event of a conflict between these Terms and Conditions and the Incoterms, the Incoterms shall prevail.

3.3 The risk attached to the products purchased will pass to the Purchaser at the time of delivery. The time of delivery is the time that the products purchased arrive at the place of delivery, even if the Purchaser does not accept the delivery. For delivery ex-works, the time of delivery is the time that IMCD notifies the Purchaser that the products purchased are ready for collection.

3.4 Unless expressly agreed otherwise in writing, the delivery period specified and agreed will not be a final deadline. The mere fact that IMCD exceeds the agreed delivery period shall not constitute a breach of contract, shall not result in default or any liability to the Purchaser and shall not entitle the Purchaser to terminate the Contract or to any other remedy for breach of contract.

3.5 If a delivery period has not been expressly agreed upon, a reasonable delivery period shall apply.

3.6 IMCD shall have the right at all times to deliver in consignments, and shall always be entitled to invoice for such partial performances separately.

3.7 If the Purchaser does not accept delivery, or in the case of ex-works delivery does not collect the products delivered within seven days after delivery and/or in the manner stipulated by IMCD, the Purchaser shall be in default without notice of default being required, and IMCD shall in any case be entitled to invoice for and receive the agreed price. IMCD shall then also be entitled, without prejudice to its other rights under the law, to store the products at the Purchaser's expense and risk, all costs arising therefrom, including but not limited to increases in duties, levies, premiums, taxes and charges, shall be payable by the Purchaser.

3.8 If a situation provided for in Article 3.7 arises, and, despite being given a reasonable time by IMCD, the Purchaser still fails later to take up the products or fails to do so in time and/or properly, IMCD is entitled to retain the purchase price (if paid) as compensation for the storage costs incurred.

3.9 The Seller shall ensure the conformity of the packaging of the Goods supplied to the mode of their transport and provide on their packaging labelling to allow the identification (designation of the Goods, manufacturer's commodity code, batch number, date manufactured and/or use-by date) of the Goods.

Article 4 PRICES

4.1 Unless expressly agreed otherwise in writing, all prices shall be ex-works. All prices shall be exclusive of VAT, the costs of transporting and/or dispatching the products, other costs incurred in connection with delivery, government levies and/or taxes payable.

4.2 IMCD shall be entitled at all times to change its prices, on condition that prices already agreed may be changed only if the cost-determining factors on which the prices are based have changed since the Contract was concluded and prior to delivery. Such price adjustments will not entitle the Purchaser to terminate the Contract. Such cost-determining factors include without limitation raw material prices, labour costs, social security costs, taxes (including VAT and other government levies), import and export duties. The Seller informs the Purchaser not later than thirty (30) days about the changes of the price mentioned above.



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Article 5 TRANSPORT EQUIPMENT AND PACKAGING

- 5.1 Unless otherwise agreed, returnable packaging provided by IMCD shall remain the property of IMCD at all times and must be returned to IMCD in perfect condition after use. If the returnable packaging is not returned in perfect condition, IMCD shall no longer be obliged to take back the returnable packaging, and the deposit charged shall not be returned either. Furthermore, the deposit shall not be returned if returnable packaging provided by IMCD is Article 5 returned after it has been used by the Purchaser for more than two years. Only if the returnable packaging concerns intermediate bulk containers, the Purchaser will be charged a reasonable rent from 30 days after delivery, in addition to the deposit. This rent shall be charged after the intermediate bulk containers have been returned. IMCD shall have the right to deduct rent from the deposit.
- 5.2 The loading or filling of transport equipment and/or packaging made available by the Purchaser shall take place at the Purchaser's expense and risk. If IMCD should nonetheless be liable, the provisions of Article 8 of these Terms and Conditions shall then be fully applicable.
- 5.3 IMCD shall have the right to refuse to load equipment and/or fill packaging if it does not comply with the reasonable safety requirements set by IMCD from time to time. In that case, IMCD shall not be liable for any costs arising from a possible delay. Costs shall also be understood to include the costs referred to in Article 3.7.

Article 6 RETURNS, COMPLAINTS AND GUARANTEE

- 6.1 Without prior written consent on its part, IMCD shall not be obliged to accept returns from the Purchaser. If products are returned without the prior written consent of IMCD, their dispatch and storage after their return shall be at the Purchaser's expense and risk.
- 6.2 The risk in returned products shall continue to be borne by the Purchaser until IMCD has accepted the return and the returned products in writing, to which acceptance IMCD may attach conditions.
- 6.3 The Purchaser shall itself be responsible for checking, or having someone check, the conformity of products during their delivery. Purchaser acknowledges its responsibility to test and effectively evaluate the supplied products to determine the Purchaser's own satisfaction, whether the product and/or any technical assistance and information provided by IMCD is suitable for Purchaser's intended uses and applications. Purchaser understands its application-specific analysis must at least include testing to determine suitability from a technical as well as health, safety, and environmental standpoint.
- 6.4 Complaints must be made in writing within 14 days of the time of delivery, stating the reasons for the complaint and if possible accompanied by proof, failing which the Purchaser shall be deemed to have accepted the quantity and quality of the products and shall lose any claim against IMCD in respect of defects in the products supplied, subject to the provisions of Article 7 regarding warranties.
- 6.5 Complaints about products which have already been treated and/or processed in any way after delivery shall not be accepted.
- 6.6 Submitting a complaint will not release the Purchaser from its payment obligations.
- 6.7 If a complaint is submitted in time and in accordance with these Terms and Conditions, and IMCD is reasonably of the opinion that the complaint is justified, IMCD shall be free to choose either to deliver what is lacking, or to redeliver the products found to be unsound free of charge, or to grant a discount on the price. By performing in one of the stated ways, IMCD shall have discharged its warranty obligation under Article 7 fully and shall not be obliged to pay any further compensation. Replaced products shall become the property of IMCD.
- 6.8 The guarantee on products delivered by third parties may never extend beyond the guarantee that is provided to IMCD by the manufacturer or importer of those products.
- 6.9 Any claim under this Article 6 shall in any case lapse three months after the time of delivery.

Article 7 WARRANTY

- 7.1 The Goods shall meet the manufacturer-approved criteria, standards and certificates, and shall be packaged.
- 7.2 IMCD warrants to the Purchaser that the products sold to the Purchaser shall at the moment of delivery comply with the specifications as provided by IMCD. Invoking the warranty will not release the Purchaser from its obligations under the Contract.

Article 8 LIABILITY

- 8.1 The Parties are responsible for a reasonable performance of conditions under this Contract and other legal acts.
- 8.2 While carrying out the provisions of this Contract the Parties is obliged to apply due diligence, expected due to the documents of their activities.
- 8.3 Unless otherwise provided by law, IMCD shall never be liable for (i) indirect loss, (ii) lost revenue or profits.
- 8.4 IMCD shall not be liable for damage or loss, of whatever nature and in whatever form, which arises or is incurred after the products delivered by IMCD have been treated and/or processed.
- 8.5 IMCD does not guarantee the completeness and accuracy of information received by IMCD from its own supplier and will not be liable for any damage – of whatever nature and in whatever form – incurred as a result of the incompleteness or inaccuracy of this information.
- 8.6 Any claim for damages shall in any case lapse three months after the time of delivery.

Article 9 COMPLIANCE WITH LAWS

- 9.1 The Purchaser shall not directly or indirectly utilise, sell, ship or otherwise transfer, the products purchased from IMCD to or through any country, entity or individual as prohibited under national and international regulations.
- 9.2 The Purchaser shall comply with any obligations it may have under REACH and to promptly provide to IMCD such information as may reasonably be required from time to time to ensure IMCD's compliance with REACH. Purchaser shall reimburse all costs and expenses of IMCD in connection with IMCD's obligations under REACH arising out of the intended use of the products by Purchaser. All information and data provided by IMCD about the substances in the products are strictly confidential and may only be disclosed by the Purchaser when required under REACH.
- 9.3 Without prejudice to the other provisions in this Article 9, the Purchaser shall comply with all applicable laws and regulations in performing its obligations under the Contract in a manner consistent with the IMCD Code of Conduct. The Purchaser confirms to have read and agreed to the IMCD Code of Conduct which is available at the following website: www.imcdgroup.com.

Article 10 FORCE MAJEURE (NON-ATTRIBUTABLE NON-PERFORMANCE)

- 10.1 The Parties shall not be liable for any non-performance or improper performance of obligations hereunder if the Parties provide proof that such non-performance or improper performance has been caused by any Force Majeure event, i.e. any prohibition or restriction under the laws or other



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regulations of the Republic of Lithuania, fire, flood, war, strike or any other similar event of same effect. The Party whose performance has been affected by said Force Majeure events must forthwith give notice to the other Party of the occurrence of such events as well as state therein the term for which the performance of obligations hereunder will be postponed.

Article 11 PAYMENT

- 11.1 Unless agreed otherwise in writing, payment must be made within 14 calendar days of the invoice date, without any discount and/or setoff, in the currency specified on the invoice.
- 11.2 In the event the Purchaser fails to pay for delivered Products on time, the Purchaser shall pay to the Seller a penalty accruing at the rate of 0.1% of the outstanding debt per day.
- 11.3 In the event the Seller fails to deliver prepaid Products on time, the Seller shall pay to the Purchaser a penalty accruing at the rate of 0.1% of the sum paid in advance per day.
- 11.4 The Purchaser shall fully pay to IMCD its actual judicial and extrajudicial costs, including legal fees, incurred as a result of the Purchaser's failure to fulfil its obligations under the Contract in full and/or on time.
- 11.5 Complaints about invoicing may only be made within the payment term. Complaints must be submitted in writing.
- 11.6 Payments shall be deducted firstly from judicial costs, extrajudicial collection costs and interest payable, and then from the outstanding principal sums, starting with the oldest outstanding principal sums.
- 11.7 The Purchaser will be unable to offset any debt to IMCD against any claim of the Purchaser against IMCD.

Article 12 SUSPENSION AND TERMINATION

- 12.1 IMCD may suspend the fulfilment of its obligations under the Contract either wholly or in part or terminate the Contract either wholly or in part out of court by means of a written notification, without any obligation to pay compensation, in the event that (there is a reasonable expectation that):
 - a) the Purchaser materially fails to fulfil one of its obligations under the Contract, such as its obligation to pay on time and in full;
 - b) an attachment is made against the Purchaser;
 - c) the Purchaser is granted a moratorium;
 - d) a petition is filed for the Purchaser's bankruptcy, or the Purchaser is declared bankrupt;
 - e) the Purchaser makes a payment arrangement with one or more of its creditors;
 - f) the Purchaser dies, is placed under guardianship or put into administration; or
 - g) the Purchaser's business is sold or dissolved.
 If, in accordance with Article 12.1, IMCD suspends performance of the Contract, the Purchaser must, at the request of IMCD, extend any letters of credit prescribed by the Contract and/or security required in accordance with Article 2.4 of these Terms and Conditions up to the new delivery date.
- 12.2 If, in accordance with Article 12.1, IMCD terminates the Contract in whole or in part, IMCD may claim back, as its property, any products delivered but not yet paid for in full.
- 12.3 If one of the situations described in Article 12.1 arises, all amounts owed by the Purchaser to IMCD shall be due and payable in full and immediately, without prior notice of default being required.

Article 13 RESERVATION OF TITLE

- 13.1 The products which IMCD supplies to the Purchaser will remain the property of IMCD until the Purchaser has paid all amounts, including interest and costs, it owes to IMCD under or in connection with the Contract.
- 13.2 Before payment has been made in full, the Purchaser shall not have the right to fully or partially pledge the products to third parties. Purchaser shall further not have the right to transfer ownership of the products, other than in accordance with its normal activities or the normal use of the products.
- 13.3 The Purchaser shall keep the products delivered subject to a reservation of title with due care and as the recognizable property of IMCD and shall insure these products against damage and theft.
- 13.4 If one of the situations described in Article 12.1 arises, IMCD shall have the right to take back itself, or have someone else take back, the products which are its property, at the Purchaser's expense, from the place where they are located. The Purchaser will cooperate fully and hereby authorizes IMCD irrevocably, if that situation arises, to enter, or have someone enter, the premises in use by or for the Purchaser.
- 13.5 The Purchaser shall not be permitted to rely upon a right of retention with regard to the costs incurred in connection with the safekeeping pursuant to Article 13.3, or to offset those costs against its performance.
- 13.6 If the Purchaser forms a new product from, or partly from, the products delivered to it by IMCD, IMCD shall have co-ownership title and rights on the new product in proportion of the value of the products processed or mixed in relation to the new product. Furthermore, the Purchaser shall keep (part of) the product for IMCD, and IMCD shall always remain the owner equal to its share of co-ownership until all the obligations referred to Article 13.1 have been fulfilled.

Article 14 INTELLECTUAL PROPERTY

- 14.1 The Contract and these Terms and Conditions do not entail any transfer or licensing of any intellectual property rights to the Purchaser.
- 14.2 The Purchaser warrants to IMCD at all times and indemnifies IMCD in this respect that the use by IMCD of data, specifications or material provided by the Purchaser does not breach any statutory regulation or infringe third-party rights.

Article 15 INVALIDITY AND CONVERSION

If any provision in the Contract or these Terms and Conditions is held to be or becomes illegal, invalid, not binding or unenforceable (in each case either in its entirety or in part) under any law of any jurisdiction:

- a) that provision shall to the extent of its illegality, invalidity, lack of binding effect or unenforceability be deemed not to form part of this Contract but the legality, validity, binding effect and enforceability of the remainder of the Contract or these Terms and Conditions shall not be affected; and
- b) a provision will apply between IMCD and the Purchaser which is legal, valid, binding and enforceable which is as similar as possible in terms of contents and purpose.



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**Article 16 OTHER PROVISIONS**

- 16.1 This Contract may be amended exclusively upon a relevant Contract of the Parties in writing, unless the Contract provide for otherwise.
- 16.2 Any changes or additions of the Contract come into force if they are done in written form and signed by the both parties.
- 16.3 This Contract has been made pursuant to the laws of the Republic of Lithuania. Any and all disputes arising out of or in connection with any amending, termination or performance of the Contract which cannot be settled in a reasonable time period by amicable negotiation shall be settled under the laws of and by the courts of the Republic of Lithuania, in Vilnius.

