

GENERAL TERMS AND CONDITIONS OF SALE IMCD ITALIA S.P.A.



Article 1 - GENERAL

1.1 Definitions:

Agreement:	any agreement and/or legal act between IMCD and the Purchaser in connection with the purchase of products of IMCD;
IMCD:	IMCD Italia S.p.a. with registered office in Milan (20141 – MI), Centro Leoni – Edificio A, Via Giovanni Spadolini n.5, VAT and tax code 03525700153;.
the Purchaser:	any legal or natural person that wishes to conclude, concludes or has concluded an Agreement 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, Authorization and Restriction of Chemicals, and latest amendments;
CGVs:	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 Agreement and to all acts and legal acts between IMCD and the Purchaser.
- 1.3 Exceptions and /or amendments from these CGVs are effective only if expressly agreed in writing.
- 1.4 The applicability of general terms and conditions used by the Purchaser or any other general terms and conditions other than these CGVs is expressly excluded.
- 1.5 The Italian text of these CGVs shall always be final and shall prevail over all translations in the event of a conflict.
- 1.6 The text of any Agreement shall prevail over these CGVs in the event of a conflict.
- 1.7 the fundamental and essential obligations undertaken by purchasers in any agreement are to: (i) timely pay the price of the delivered products; (ii) timely collect the products, according to IMCD instructions; (iii) meticulously verify and inspect the delivered products and all related documentation (the "Obligations"). These Obligations within the exclusion of warranty according to art. 1491 ICC, as hereby provided, have been taken into account for the quotation and pricing of each IMCD products.

Article 2 - OFFERS AND AGREEMENTS

- 2.1 Any offer, quotation and price offered by IMCD is not binding and shall be interpreted as an invitation to the Buyer to make an offer for a binding purchase. The Agreement is concluded when Purchaser receives written confirmation by IMCD of its initial order (offer) according to art. 1326 Italian Civil Code ("ICC"). In case that IMCD's confirmation differs from the Purchaser's offer, such acceptance constitutes a new non-binding offer by IMCD. Samples and models shown or provided shall serve as indications only, without the products having to comply with those samples and models (art. 1522 ICC expressly excluded). Minor variations, including in stated size, weight, number and colour shall not be considered as defects. Normal commercial practice shall determine whether variations shall be considered as minor.
- 2.2 IMCD shall be entitled to require security from the Purchaser for the fulfilment of any of Purchaser's Obligations under any Agreement either before starting its own performance or, according to art. 1461 ICC, in the event the economic conditions of the Purchaser – in the discretion of IMCD - have deteriorated and /or jeopardize the fulfilment of its Obligations and duties. The security shall be provided in the manner requested by IMCD. If the Purchaser does not provide security in the manner requested by IMCD, all amounts owed by the Purchaser to IMCD shall be immediately due and payable in full (even before any performance).

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 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 CGVs and the Incoterms, the Incoterms shall prevail.
- 3.3 The risk attached to the purchased products will pass to the Purchaser at the time of delivery. The time of delivery is the time when IMCD notifies the Purchaser that the purchased products are ready for collection, even if the Purchaser does not accept the delivery.
- 3.4 The delivery term specified and agreed shall not be a final and essential deadline for IMCD and has a descriptive purpose as an indication of readiness only. The mere fact that IMCD is in delay and exceeds the agreed delivery period, shall not constitute a breach of contract and IMCD shall not be in default or liable to the Purchaser as a result thereof. The Purchaser shall not be entitled to terminate the Agreement or to any other remedy by law.
- 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 timely 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 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, and all costs arising therefrom, including but not limited to supply back and logistic costs, increases in duties, levies, premiums and the suchlike, shall be payable by the Purchaser.
- 3.8 In addition, 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 (which is, in any case, upon the 90th day after the original delivery date), IMCD shall be released from all its obligations and, in addition, is entitled to sell the products to third parties, charging on the Purchaser all costs arising from the delay as well as the constituent sale to a third party, including but not limited to supply back and logistic costs, storage, increases in duties, levies, premiums, charges and loss of value which the products have sustained since delivery.
- 3.9 For the avoidance of doubt, in a situation of a constituent sale of the products as provided for in Article 3.8, according to art. 1515 ICC, IMCD is also entitled – as liquidated damages and save further damages - either to (i) the difference between the price that was agreed with the Purchaser and the net proceeds of the constituent sale or (ii) to compensation of the value of the eventual leftover products remaining after the constituent sale.
- 3.10 The situations provided for in this Article 3.7 to 3.9 do not require a prior notice of default and do not prejudice any other IMCD's rights under the law.

Article 4 - PRICES

- 4.1 All prices are EXW and determined taking into account the Purchaser's Obligations. All prices are exclusive of VAT, costs of transporting and/or dispatching the products, and/or any other costs incurred in connection with delivery, government levies and/or taxes payable.
- 4.2 IMCD shall be entitled to charge on the Purchaser an administrative charge in the amount of 30,00 (thirty) Euro (plus VAT if due) in the event that the purchase order will be for an amount not exceeding 1.000 (one thousand) Euro.



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Article 5 - TRANSPORT EQUIPMENT AND PACKAGING

- 5.1 Returnable packaging provided by IMCD shall remain in 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 any deposit that may have been charged to the Purchaser in respect of such returnable packaging, shall not be returned either. Furthermore, such deposit shall not be returned if the returnable packaging provided by IMCD is returned after it has been used by the Purchaser for more than 2 (two) years. If the returnable packaging consists out of intermediate bulk containers, the Purchaser will be charged a reasonable rent starting from the 30th days upon the day of the 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 set off any right for the payment of rent against a Purchaser's right for return of 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.
- 5.3 IMCD shall have the right to refuse to load Purchaser's equipment and/or fill packaging if the equipment / packaging provided by the Purchaser does not comply with the safety requirements applied by IMCD. In that case, IMCD shall not be liable for any costs arising from any related delay and Article 3.7 shall apply.

Article 6 – RETURNS AND COMPLAINTS

- 6.1 IMCD does not accept returns from the Purchaser, without IMCD's prior written consent. If products are returned without the prior written consent of IMCD, their transportation, dispatch and storage 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 expressly accepted the returned products in writing, to which acceptance IMCD may attach conditions.
- 6.3 As an essential part of any Agreement and a basic principle of these CGVs, the Purchaser acknowledges and expressly accepts to be obliged to check the conformity of any and all products during their delivery, pointing out any visible non-conformity - including but not limited to - quantity, quality, documentation and labeling on the delivery note which shall be signed by the carrier. Lacking of such (signed) notice, the products shall be deemed definitively accepted free of such non-conformity and the Purchaser cannot claim any subsequent non-conformity of the delivered products, that should have been discovered with due care during delivery.
- 6.4 Moreover the Purchaser acknowledges to have a further essential and material contractual duty to - as soon as possible and in any event prior to any use and/or reselling, and at least not later than 14 (fourteen) days after delivery - test and effectively evaluate, among others, whether: (i) the products (including samples and models) meet the specifications, as provided by IMCD; (ii) the products and/or any related technical support and information, as provided by IMCD, do not have any related hidden non-conformity. The Purchaser's Obligation to inspect, test and evaluate the delivered products as described herein shall, among others, consist out of an application-specific analysis and shall, at least, include testing to determine compliance from a technical as well as health, safety, and environmental standpoint. The Purchaser in breach of these obligations cannot claim any consequent non-conformity and/or defects, also hidden, of the delivered products.
- 6.5 Any notice of complain must be served by the Purchaser to IMCD in writing within 14 (fourteen) days from the day of delivery, stating the reasons for the claimed non-conformity with documentary evidence of the fulfillment by the Purchaser of its Obligations as described in Article 6.4 above. Failing such written communication by the Purchaser, the delivered products shall be deemed to have been definitively accepted, analogously to art. 1665 ICC.
- 6.6 Submitting a complaint does not release the Purchaser from its payment obligations in accordance with the agreed due dates.
- 6.7 The Parties confirm and acknowledge that the price of the delivered products has been determined even taking into consideration the specific and essential Purchaser's Obligations and the terms and conditions as described in this Article 6.

Article 7 - WARRANTY

- 7.1 Save the limitation provided in these CGVs, IMCD only warrants that the delivered products shall, at the time of delivery, comply with the specifications as expressly provided by IMCD in connection to any specific product sold. IMCD does not make any express or implied warranty as to the merchantability or fitness for any particular purpose of the products.
- 7.2 If a complaint is submitted on time and in accordance with these CGVs, and IMCD is reasonably of the opinion that the complaint is justified, IMCD shall be free to choose either to (a) free of charge for the Purchaser, deliver what is lacking or to re-deliver the products that was qualified defective, or (b) grant a discount on the price. By performing one of these remedies, IMCD shall have discharged its warranty obligation fully and shall not be obliged to pay any further compensation. Replaced products shall become the property of IMCD and are to be returned in accordance with the procedure established in Article 6 herein. The solution described herein also applies in case of an established and ascertained decision (by the competent Court) of a breach of any warranty since the only remedy for the Purchaser is to claim for (re)performance of the Agreement. Any other remedy and/or damages is hereby expressly excluded.
- 7.3 The Purchaser acknowledges and expressly accepts that IMCD's warranty on delivered products by third parties shall never exceed or extend beyond the guarantee that is provided to IMCD by its supplier of those products. More over IMCD does not make any express or implied warranty on the circumstance that the products (purchased from third parties / suppliers) do not violate any intellectual property right.
- 7.4 The Parties confirm and acknowledge that the price of the delivered products has been determined taking into consideration these terms and conditions and limitation on warranty.

Article 8 – IMCD'S Obligation

- 8.1 IMCD will not be liable for any damage sustained by the Purchaser, irrespective of whether this damage is the result of failure by IMCD to fulfil its obligations under the Agreement and/or these CGVs or of any act and/or omission by IMCD itself and/or by others acting on IMCD's instructions, unless the Purchaser proves that the damage is the result of intentional or wilful misconduct ascribable exclusively by IMCD. the IMCD's obligation in any event is limited to the value of the delivered defective products and consists in their substitution or the grant of a discount to Purchaser. By performing one of these remedies, IMCD shall have discharged any related obligation fully and shall not be obliged to pay any further compensation.
- 8.2 IMCD shall never be liable for indirect loss of any kind (including consequential loss, loss of profits and/or non-material loss) suffered by the Purchaser or by a third party as a result of IMCD and/or any of its partners failure to perform under the Agreement.
- 8.3 IMCD shall not be liable for damages, of whatever nature and in whatever form, which arise after the delivered products have been used, treated, processed and/or sold on by Purchaser.
- 8.4 The Purchaser shall hold IMCD harmless from and compensate IMCD for all and any third-party claims for whatever reason linked to the delivered products, unless and insofar as the Purchaser proves that such claim falls exclusively within IMCD's area of responsibility.

Article 9 - COMPLIANCE WITH LAWS

- 9.1 The Purchaser shall comply with all applicable laws including but not limited to laws and conventions relating to anti-bribery and anti-corruption such as the Italian D.Lgs 231/2001, and laws relating to export control and customs regulations such as (i) the rules on embargoed countries, (ii) the restrictions on the sale of products to restricted or denied customers, and (iii) the regime for the control of exports, transfer, brokering and transit of dual-use items. The Purchaser shall not directly or indirectly utilize, 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.

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- 9.2 The Purchaser shall comply with any obligations it may have under REACH and shall promptly, upon first request, 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 a commercial secret and 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 also comply with all applicable laws and regulations in performing its obligations under the Agreement in a manner consistent with the IMCD Code of Conduct. The Purchaser confirms to have read and agrees to the IMCD Code of Conduct which is available at the following website: <http://www.imcdgroup.com/investor-relations/corporate-governance/code-conduct>.
- 9.4 The Purchaser shall procure that any third parties to whom the products that it purchased from IMCD will be supplied, whether in original form or as intermediate or end-product, are under the same obligations as set out in this Article 9 such that all third parties down the supply chain, as far as the end-user, are under the same strict compliance.
- 9.5 The Purchaser agrees to indemnify and hold harmless IMCD, its officers, employees, agents and/or representatives, from and against all damages, losses, liabilities, penalties, costs and/or expenses, including reasonable attorney fees, as a result of any claim, suit, action, proceeding, demand, judgment or settlement arising out of Purchaser's failure to adhere to the provisions of this Article 9.

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

- 10.1 In the event that, due to force majeure, IMCD is prevented from performing the Agreement, or performance becomes more costly, IMCD shall have the right to suspend the Agreement in full or in part for the duration of the force majeure situation, or to terminate the Agreement in full or in part, without judicial intervention and without IMCD being obliged to pay any compensation.
- 10.2 The term "Force Majeure" shall be understood to mean any circumstance, both foreseen and unforeseen, that permanently or temporarily prevents the performance by IMCD of the Agreement. Such circumstances shall in any case be understood to include inability to pay for whatever reason, strikes, excessive staff sickness, interruptions in production, transport problems, fire and other business disruptions, import, export and transportation bans, late or defective delivery by IMCD's suppliers, and other events beyond the control of IMCD, such as flood, storm, natural and/or nuclear disasters, war and/or threat of war, terrorist attacks, but also changes in legislation and/or government measures. In addition, IMCD may always rely upon force majeure in the case of unsuitability of products and/or persons used by IMCD to perform the Agreement.
- 10.3 If IMCD suspends performance of the Agreement in accordance with the provisions of this Article 10, the Purchaser must, at the request of IMCD, extend any letters of credit prescribed by the Agreement and/or the security required in accordance with these GCVs up to the new delivery date.

Article 11 - PAYMENT

- 11.1 Unless agreed otherwise in writing, payment by the Purchaser to IMCD must be made within 14 (fourteen) days of the invoice date, without any discount and/or setoff, in the currency specified on the invoice.
- 11.2 If payment in full has not been made within the stated period, the Purchaser shall be in default by operation of law and shall be liable to pay to IMCD interest as provided by Italian D.Lgs 231/2002 plus any judicial and extrajudicial costs, including legal fees, incurred as a result of Purchaser's failure to fulfil its obligations under the Agreement.
- 11.3 Any payments received by IMCD shall be deducted firstly from outstanding judicial costs, extrajudicial collection costs and interest payable, and then from the outstanding principal sums, starting with the oldest outstanding principal sums, regardless of any instructions to the contrary from the Purchaser.
- 11.4 The Purchaser will be unable to offset any debt owed to IMCD against any claim of the Purchaser against IMCD.

Article 12 - SUSPENSION AND TERMINATION

- 12.1 Without prejudice to the provisions of Article 10, and without prejudice to the right to claim compensation, IMCD may suspend the fulfilment of its obligations under the Agreement either wholly or in part by means of a written notification, without any obligation to pay compensation, in the event that (there is a reasonable expectation that):
- the Purchaser materially fails to fulfil one of its obligations under the Agreement, such as its obligation to pay on time and in full;
 - an attachment is made against the Purchaser;
 - the Purchaser is granted a moratorium;
 - a petition is filed for the Purchaser's bankruptcy, or the Purchaser is declared bankrupt;
 - the Purchaser makes a payment arrangement with one or more of its creditors;
 - the Purchaser dies, is placed under guardianship or put into administration; or
 - the Purchaser's business is sold or dissolved.
- 12.2 If, in accordance with Article 12.1, IMCD suspends performance of the Agreement, the Purchaser must, at the request of IMCD, extend any letters of credit prescribed by the Agreement and/or security required in accordance with these CGVs up to the new delivery date.
- 12.3 If the Purchaser fails to timely fulfil its obligations and particularly timely pay the price, IMCD shall have the right to terminate the Agreement in whole or in part without any court order according to art. 1456 ICC and claim back, as its property, any delivered products not yet paid for in full, offset against any sums already paid, without prejudice to its right to compensation.
- 12.4 According to art. 1186 ICC, if one of the situations described in this Article 12 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.
- 12.5 The Purchaser may not suspend compliance with its obligations under or in connection with the Agreement or these CGVs on whatever grounds.

Article 13 - Transfer of Title on delivered goods

- 13.1 According to art. 1353 ICC, the delivered products to the Purchaser will remain the property of IMCD until full and timely payment of all amounts due by Purchaser to IMCD, including interest and costs, have taken place, while risk and responsibility (including custody duties) relating the goods are transferred to the Purchaser upon delivery.
- 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.
- 13.3 The Purchaser shall keep the delivered products until transfer of title with maximum due care and as the recognizable property of IMCD and shall insure these products against damage and theft.
- 13.4 In case of suspension and/or termination of the Agreement according to these CGVs, IMCD shall have the right to take back, or have someone else take back, the products which are its property, at the Purchaser's expense, from the place where they are located.
- 13.5 If, before payment has been made in full, the Purchaser forms a new product from, or partly from, the delivered products, 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 payment obligations have been fully fulfilled.



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Article 14 - INTELLECTUAL PROPERTY

14.1 Any Agreement and these CGVs 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 shall indemnify IMCD in such 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

15.1 If any provision in the Agreement or these CGVs 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, according to art. 1419 ICC:

- 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 agreement but the legality, validity, binding effect and enforceability of the remainder of the Agreement or these CGVs 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.

Article 16 - APPLICABLE LAW AND COMPETENT COURT

16.1 Substantive Italian laws (diritto materiale) excluding, therefore, the conflict of laws rules shall apply to all Agreements and to these CGVs, including this Article 15, and to any non-contractual obligation arising out of or in connection with the Agreement or these CGVs. Applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is explicitly ruled out.

16.2 The Italian Courts shall have the exclusive jurisdiction, and the Court of Milan (Tribunale di Milano) shall have the exclusive competence, to decide any controversy that may arise out, or be connected, to any Agreement and these CGV's.

