

GENERAL TERMS AND CONDITIONS OF SALE

IMCD Polska Sp. z o. o.

Version 02/02/2015

Article 1 GENERAL

1.1 Definitions:

- Agreement:** any agreement between IMCD and the Purchaser in connection with the purchase of products by the Purchaser from IMCD.
- IMCD:** IMCD Polska Sp. z o. o. seated in Warsaw.
- the Purchaser:** any legal or natural person that wishes to conclude, concludes or has concluded an Agreement with IMCD.
- 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.
- 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 constitute an integral part of the Agreement and shall apply 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 Polish 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 Agreement shall prevail over these Terms and Conditions in the event of a conflict.

Article 2 OFFERS AND AGREEMENTS

- 2.1 All verbal supplements, promises or changes shall be binding only if they have been made by authorised people at IMCD.
- 2.2 Samples and models shown or provided shall serve as indications only, without the products having to comply with those samples and models. Variations in product shall not be considered to be defects.
- 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 Agreement. The security shall be provided in the manner stipulated by IMCD.
- 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.
- 2.5 Irrespective of the used title, any information regarding the possibility of the execution of the Agreement from IMCD, shall not constitute offer but shall be considered as the invitation to participate in negotiations and consequently may be amended.
- 2.6 Any order placed by the Purchaser shall be considered as an offer as referred to in the civil code.

Article 3 DELIVERIES

- 3.1 Unless expressly agreed otherwise in writing, the delivery shall be ex-works (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 making the product available for collection or entrusted the product to a carrier.
- 3.4 Unless expressly agreed otherwise in writing, the delivery period specified and agreed id for information only and shall be considered as preliminarily provided and not binding. 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 Agreement.
- 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. The preliminary payment dates shall amend accordingly.
- 3.7 If the Purchaser does not accept delivery, or does not collect the products delivered according to the clause 3.1 within seven days, the IMCD, without the prejudice to the other rights of IMCD stipulated herein., to store the products at the Purchaser's expense and risk, all costs arising therefrom, including increases in duties, levies, premiums and the suchlike, 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 shall be released from all its obligations. In that case, IMCD may dispose the products at the Purchaser's expense.
- 3.9 The failure to take up the product and/or its disposal according to the clause 3.8 shall not affect the payment date of the price which falls due as if the product was delivered at a initially provided date.

Article 4 PRICES

- 4.1 Unless expressly agreed otherwise in writing, all prices shall be ex-works. All prices shall be exclusive of VAT.
- 4.2 IMCD shall be entitled at all times to change agreed prices, if the cost-determining factors on which the prices are or may be based have changed. Such price adjustments will not entitle the Purchaser to terminate the Agreement. 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 and exchange rates.
- 4.3 In the situation referred to in article 552 of the civil code, IMCD may terminate the Agreement without prior notice of default being required

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.
- 5.2 IMCD may refuse to accept the returnable packaging after it has been used by the Purchaser for more than two years. The provisions of the clause 5.1 shall apply accordingly.
- 5.3 If the returnable packaging concerns intermediate bulk containers, the Purchaser will be charged a rent from 30 days after delivery, in addition to the deposit. The Purchaser shall paid the rent as calculated by IMCD unless it abnormally exceeds market level. This rent

- shall be charged after the intermediate bulk containers have been returned.
- 5.4 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.
- 5.5 IMCD shall have the right to refuse to load equipment and/or fill packaging, including but not limited, if it does not fulfil reasonable safety requirements set by IMCD. In that case, IMCD shall not be liable for any costs arising from the refusal.

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 as set forth in clause 6.1 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. Complaints must be made in writing forthwith but not later than within 14 days of the time of the risk in products passes, stating the reasons for the complaint and accompanied by proof
- 6.4. Failing the complaint according hereto the Purchaser shall be deemed to have accepted the quantity and quality of the products and shall lose any claim against IMCD in this respect.
- 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 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. Replaced products shall become the property of IMCD.
- 6.8. The Purchaser may submit a quantitative complaint provided that the Purchaser has taken each and every action which can be required for enabling IMCD to assert its rights against the carrier or the insurer. Especially the product is subject to the quantitative acceptance of the Purchases not later than at the moment of passing the risk in product. Subject to the provision of the first sentence of the clause 6.8 the Purchaser shall submit the quantitative complaint along with the written protocol signed by the Purchaser and the carrier, confirming the nonconformity. The provisions of the clause 6.7 shall apply accordingly.
- 6.9. Product liability of IMCD may never extend beyond the product liability of third party delivering the product to IMCD.
- 6.10. Subject to the other provisions hereof the Purchaser may not pursue claims against IMCD later than three months after the risk in product has passed.

Article 7 WARRANTY

- 7.1 Nothing herein nor in the Agreement shall be interpreted as warranty that the product at the moment of passing the risk has characteristics other than set out in the specifications as provided by IMCD to the Purchaser for such products. In particular, samples and models shown or provided shall not be deemed as such warranty. Without prejudice to the other provisions hereof, the liability of IMCD with respect to the quality of product shall not in any case exceed the liability for compliance with the specifications as provided by IMCD.
- 7.2 IMCD does not make any express or implied warranty as to the merchantability or fitness for any particular purpose of the products, including the purpose intended by the Purchaser.
- 7.3 By performing in one of the stated ways, IMCD shall have discharged its guarantee obligation fully and shall not be obliged to pay any further compensation.
- 7.4 The provisions of the articles 6 and 7 hereof shall be the sole ground for any Purchaser's claim regarding the quality of product.
- 7.5 The articles 581 and 556-576 of the civil code shall not apply.

Article 8 LIABILITY

- 8.1. IMCD shall not be liable for non-performance or improper performance of an obligation, except in case of IMCD's intentional fault.
- 8.2. The total contractual liability of IMCD shall not exceed the real loss (damnum emergens) and shall not in any case exceed the value of the delivery to which the non-performance or improper performance relates. IMCD shall never be liable for indirect loss of any kind including consequential loss and lost profits, and non-material loss suffered by the Purchaser or by a third party.
- 8.3. Complaints about products which have already been mixed, treated and/or processed in any way shall not be accepted.
- 8.4. IMCD does not guarantee the completeness and accuracy of information received by IMCD from third parties, including its own supplier.
- 8.5. The liability of IMCD shall at any event be limited at all times per event, with a series of connected events counting as one event, to the amount that is paid out under IMCD's business liability insurance policy in the case concerned.
- 8.6. The Purchaser must compensate IMCD for, and indemnify it against, all third-party claims, for whatever reason, in connection with compensation for any damage, costs, interest and/or losses which arise in connection with the products delivered by IMCD to the Purchaser, unless and insofar as the Purchaser demonstrates that the claim falls exclusively within IMCD's area of responsibility and the claim was finally awarded by the relevant court.
- 8.7. The provisions of this Article shall also apply in favour of all legal or natural persons used by IMCD to perform the Agreement.
- 8.8. Subject to the other provisions hereof the Purchaser may not pursue claims against IMCD later than three months after the risk in product has passed.

Article 9 COMPLIANCE WITH LAWS

- 9.1 The Purchaser shall comply with all applicable laws including but not limited to laws relating to anti-bribery and anti-corruption regulations, 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 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 Agreement in a manner consistent with the IMCD Code of Conduct. The IMCD Code of Conduct is available at the following website: www.imcdgroup.com.
- 9.4 The Purchaser shall procure that any third parties to whom the products 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 representatives, from and against all damages, losses, liabilities, penalties, costs and 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 IMCD shall not be liable for the damage resulting from the event of force majeure. The term "force majeure" shall be understood to mean any circumstance, difficult to foresee and which effects are hard to prevent, that permanently or temporarily prevents the performance by IMCD of the Agreement or increases the costs of such performance. In the event that 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 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, 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 Article 2.3 of these Terms and Conditions up to the new delivery date.

Article 11 PAYMENT

- 11.1. Unless agreed otherwise in writing, payment must be made within 14 days of the invoice date, without any discount and/or setoff, in the currency specified on the invoice.
- 11.2. If payment in full is not made within the period stated, the Purchaser shall be in default by operation of law and shall be liable to pay interest at the statutory rate.
- 11.3. 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 Agreement in full and/or on time, whereby in any event the Purchaser is obliged for any such failure to pay to IMCD at least extrajudicial costs amounting to 15% of the outstanding amount, with a minimum of EUR 125.
- 11.4. Complaints about invoicing may only be made within 14 days. Complaints must be submitted in writing. The submission of a complaint shall not suspend the Purchaser's payment obligation.
- 11.5. Payments shall be deducted firstly from liquidated damages and interests 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.
- 11.6. 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 Without prejudice to the other provisions hereof, IMCD may suspend the fulfilment of its obligations under the Agreement either wholly or in part or terminate the Agreement either wholly or in part out of court by means of a written notification, without any obligation to pay compensation, in the event that the payment in full is not made within the period stated or there is a reasonable expectation that the Purchaser's credit standing has worsen or is unsatisfactory, the Purchaser dies or the Purchaser's business is sold or there are any other circumstances that may prevent the Purchaser from fulfilment of its obligations under the Agreement.

- 12.2 If, in accordance with Article 12.1, IMCD suspends performance of the Agreement, the Purchaser must accordingly, at the request of IMCD, extend any letters of credit prescribed by the Agreement and/or security required in accordance with Article 2.3 of these Terms and Conditions forthwith but not later than within the term specified by IMCD.
- 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.
- 12.4 The Purchaser may not suspend compliance with its obligations under or in connection with the Agreement or these Terms and Conditions on whatever grounds.

Article 13 RESERVATION OF TITLE

- 13.1 The products which IMCD supplies to the Purchaser will remain the property of IMCD, according to the provisions of the article 589 of the civil code, until the Purchaser has paid all amounts, including interest and costs, it owes to IMCD under or in connection with the Agreement. The Purchaser shall neither pledge the product nor transfer the ownership of the product prior to the transfer of title.
- 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, guarantee that the products' quality will not deteriorate and shall insure these products to the extent which may be needed.
- 13.4 Without prejudice to its other rights, 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 authorises 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 entitled to any claims resulting from the performance of obligations under this Article 13.
- 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 Agreement 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. The Purchaser must compensate IMCD for, and indemnify it against, all third-party claims.

Article 15 INVALIDITY AND CONVERSION

If any provision in the Agreement 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) neither the legality, validity or enforceability of the remaining provisions of the Agreement shall in any way be affected or impaired thereby. The invalid provision shall be replaced by a valid one which achieves to the extent possible the original purpose and commercial goal of the invalid provision.

Article 16 APPLICABLE LAW AND COMPETENT COURT

- 16.1 All disputes arising in connection with this agreement, including disputes concerning the existence and validity thereof, shall be resolved by the court having jurisdiction over the registered office of IMCD.
- 16.2 Any amendments of the Agreement should be made in writing on pain of invalidity.
- 16.3 Polish law shall apply exclusively.
- 16.4 Applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is explicitly ruled out.

