

General Terms of Delivery and Payment FUJIFILM Wako Chemicals Europe GmbH (June 2018)

1. Scope

1.1 For the sale and delivery of FUJIFILM Wako Chemicals GmbH products (hereinafter referred to as "**Product(s)**") and related services as well as for the submission of bids, only these general delivery and payment conditions (hereinafter "**General Terms of Delivery**") shall apply as well as any prevailing special agreements. The General Terms of Delivery form an integral part of all contracts that FUJIFILM Wako Chemicals GmbH (hereinafter referred to as "**Seller**") concludes with its contractual partners (hereinafter referred to as "**Customer**") about the Products and services it offers. They also apply to future deliveries of Products and services or the submission of offers to the Customer, even if they have not been separately agreed upon.

1.2 General terms and conditions used by the Customer or a third party shall not apply, even if the Seller does not expressly object to their application in each individual case. Even if the Seller refers to correspondence which contains terms and conditions of the Customer or of third parties or makes mention of such, this does not suggest any agreement to the validity of such terms and conditions.

1.3 These General Terms of Delivery only apply to business people ("*Kaufleute*"), entrepreneurs ("*Unternehmer*"), legal persons in public law ("*juristische Personen des öffentlichen Rechts*") or special funds in public law ("*öffentlich-rechtliches Sondervermögen*").

2. Offer and conclusion of contract

2.1 All offers made by the Seller are subject to change and are non-binding, unless they are not expressly marked as binding or contain a definite term of acceptance.

2.2 Orders can be accepted by the Seller within fourteen days after receipt of the order. A contract shall only become effective if the Seller confirms the Customer order in text form (e.g. via e-mail, fax) or carries out the delivery.

2.3 Amendments and modifications to the agreements made including deviations of the General Terms of Delivery must be in writing in order to be valid. The same applies to this written form requirement.

2.4 Information provided by the Seller regarding the properties of the Products in brochures, offers or order confirmations (e.g. weights, dimensions, values in use, load capacity, tolerances and technical data) as well as our graphic representations (e.g. drawings and illustrations) are only approximations and are only applicable as reference information and are not part of the agreed quality of the Product, unless expressly agreed in writing as information on the quality of the Product.

2.5 Guarantees, in particular guarantees of quality, shall only be binding on the Seller to the extent agreed upon in writing, if expressly referred to as "guarantee" or "guarantee of quality" and if they expressly set forth Seller's obligations deriving from such guarantees. Deviations according to custom and usage and deviations resulting from legal provisions or deviations constituting technical improvements, as well as a component replacement by equivalent parts are permissible as far as they do not impair usability for the contractually agreed purpose.

2.6 The Seller retains the ownership or copyright for all offers and cost estimates issued by him as well as drawings, illustrations, calculations, brochures, catalogs, models, tools and other documents and resources made available to the Customer. Without the express agreement of the Seller, the Customer may not make these objects, or the content of them, accessible to third parties or make them known to third parties, or have them used or

reproduced, either by himself or by third parties. At the Seller's request he must return these objects to him in their entirety and, where applicable, destroy any copies made of them, if they are no longer needed by him in the proper course of business or if negotiations do not result in the conclusion of a contract.

3. Prices and payment terms

3.1 The prices apply to the scope of service and delivery stated in the order confirmation. Additional or special services will be calculated separately. The prices are quoted in the Seller's order confirmation either in EURO (EUR) or US \$ (USD) or Japanese yen (JPY) ex works or warehouse plus packaging, VAT, duty on exports as well as fees and other public charges.

3.2 Until the delivery of the Products, the Seller reserves the right to adjust the prices accordingly, if after the conclusion of the contract there are not only insignificant cost reductions or cost increases (e.g. due to changes in the prices of raw materials and materials, changes in the costs of transport of Products or other changes in prices of the suppliers or exchange rate fluctuations), for which the Seller cannot be held responsible and which were not foreseeable with sufficient certainty at the time the contract was concluded. Increases in one cost category may only be used to increase the price to the extent that it cannot be offset by any declining costs in other areas. The Seller will substantiate the price adjustment to the Customer on request. Within an ongoing supply relationship, the Seller may adjust the prices agreed for future orders under the same conditions.

3.3 Invoices shall be paid in full within thirty days without deductions, unless an agreement has been made otherwise in writing. Payment shall be deemed in time with the receipt of the invoice amount in the account of the Seller. Checks will be valid as payment after being cashed. If the Customer does not pay by the due date, then interest will be charged on the outstanding amounts at a rate of 9 percentage points above the base rate, as from the due date; the application of a higher interest rate and additional damages in case of late payment remains unaffected.

3.4 The offsetting with counterclaims by the Customer or the withholding of payments against such claims is permitted only insofar as the counterclaims are undisputed or have been legally upheld. The Customer is furthermore authorized to exercise a right of retention to the extent that the counterclaim is based on the same contractual relationship. In case of defects in the delivery, the counter-rights of the Customer remain unaffected, in particular pursuant to Section 7 (3) sentence 4 of these General Terms of Delivery.

3.5 The Seller is entitled to make deliveries or provide services only against prior payment or provision of appropriate security deposit if, after the conclusion of the contract, circumstances become known to him which considerably reduce the Customer's credit worthiness (in particular suspension of payments, application for insolvency proceedings, seizure or foreclosure measures, bills of exchange or check protests and returns of refusal of direct debit, even to third parties) and on account of which the payment of the Seller's outstanding claims from the relevant contractual relations (including those from other individual orders for which the same framework contract applies) is put at risk.

4. Delivery and delivery times

4.1 Unless otherwise agreed, the deliveries of the Seller shall be FCA (Incoterms 2010) ex works or warehouse.

- 4.2 Terms and deadlines announced by the Seller in advance are always only approximate unless a fixed term or a fixed deadline is expressly specified or agreed in writing. If the shipment of the Products was agreed, the delivery deadlines and dates refer to the moment of passing it on to the freight forwarder, carrier or to any other third party commissioned with the shipment.
- 4.3 Notwithstanding his rights with respect to defaulting on the Customer's part, the Seller may ask the Customer for an extension to terms for supplies and services or a postponement of delivery and completion deadlines by the period of time for which the Customer fails to meet his contractual obligations with respect to the Seller.
- 4.4 The Seller is not liable for impossibility of delivery or for delays in delivery insofar as these have been caused by force majeure or other events which were not foreseeable at the time of concluding the contract (e.g. operating disruptions of all kinds, difficulties in procuring materials or power, transport delays, strikes, lawful lockouts, workforce, energy or raw materials shortages, difficulties in procuring necessary official approvals, official measures or non-delivery or incorrect or late delivery by suppliers), for which the Seller is not responsible. As far as such events make delivery or service for the Seller difficult or impossible and the obstruction is not only of temporary duration, the Seller is entitled to withdraw from the contract. In case of temporary hindrances the agreed lead times for delivery of goods or provision of services will be delayed by the duration of the hindrance plus an appropriate start-up time. The Seller will inform the Customer without delay of the beginning and expected end of any such event. If the hindrance lasts four months or longer, both parties may withdraw from the contract.
- 4.5 The Seller is entitled to make partial deliveries insofar as this is reasonable for the Customer, taking into account his interests, in particular if the delivery of the remaining ordered Products is ensured and no considerable additional expenditure and/or no considerable additional costs are thereby to be incurred by the Customer. Each partial delivery can be invoiced separately.
- 4.6 If the Seller falls behind with a delivery or service or if a delivery or service is impossible for him, for whatever reason this may be, then the Seller's liability for compensation of damages is limited according to Section 8 of these General Terms of Delivery.
- 5. Place of fulfillment, delivery, packing, transfer of risk**
- 5.1 Place of performance for all obligations arising from the contractual relationship is Neuss, unless otherwise specified. Should the Seller also be responsible for the installation, the place of performance is the location at which the installation takes place.
- 5.2 The type of dispatch and the packaging are subject to the dutiful discretion of the Seller.
- 5.3 In the event of a sale by delivery to a place other than the place of performance, the risk of loss, damage or destruction of the Product shall pass to the Customer not later than at the beginning of the loading procedure. This also applies if partial deliveries are made or the Seller has taken on other services (such as shipping or installation).
- 5.4 The Customer shall come into default of acceptance if it does not accept the Product at the end of the binding delivery period or on the binding delivery date. In the case of a non-binding delivery period or a non-binding delivery date, the Seller may notify the Customer that the Product is ready. If the Customer does not accept the Product within one week of receipt of the notice that the goods are ready for collection, it shall fall into default of acceptance.
- 5.5 Storage costs after the risk has been transferred is to be carried by the Customer. If warehousing is arranged by the Seller, the costs shall be 0.25% of the invoice amount per week for the goods to be stored. The rights are reserved of enforcing and substantiating additional or lower storage costs.
- 5.6 The Seller shall insure shipments against theft, damage due to breakages, transport, fire and water and other insurable risks only upon the Customer's expressed request and at the Customer's cost.
- 6. Installation and acceptance**
- 6.1 In the event of the assembly, installation or commissioning of the Product by the Seller, the Customer shall be responsible for preparing the future site of the Product at its own expense, in accordance with our instructions for installation.
- 6.2 In the events referred to in Section 6 (1), the Customer shall accept the Product immediately on completion of the work of the Seller by submitting a written declaration of acceptance. Acceptance shall not be refused for minor defects. The Product shall be deemed accepted if the Customer does not accept the Product within a reasonable period set by the Seller, although he is legally obligated to do so.
- 6.3 The Customer shall not commission the Product before acceptance except for performing a supervised test or trial operation. In case of breach of the aforementioned obligation, the Product shall be deemed accepted.
- 7. Warranty, material defects**
- 7.1 The Customer's defect rights shall be time-barred one year from delivery of the Product or, if acceptance is required, the one-year period begins with the acceptance of the Product. This limitation does not however apply if (a) a defect is fraudulently not disclosed or (b) a guarantee of the quality of the Product was granted (in this regard, the limitation period or liability provision provided under the guarantee shall apply). In the event of compensation claims, such restrictions shall also not apply in the following cases: (a) in the event of injury to life, body and health, (b) willful misconduct and (c) gross negligence of managerial staff ("*leitende Angestellte*") or authorized directors ("*Organe*") of the Seller.
- 7.2 The delivered Products must be thoroughly inspected by the Customer or a third party appointed by the Customer immediately after delivery to the Customer or to the third party specified by him. The Products are deemed to be approved if the Seller does not receive notice of visible or other defects, which could have been identified through an immediate thorough inspection, in writing within seven working days from the delivery of the Product or within seven working days of discovery of the defects or the time at which the defect was recognizable without a closer inspection by the Customer during normal use of the Product. At the request of the Seller, the defective Product must be returned by the Customer to the Seller freight prepaid. If such a notice of defect is justified, the Seller shall reimburse the Customer for the costs of the cheapest way of shipment; this shall not apply if such costs are increased by the fact that the Product is located at a place other than the place of their intended utilization.
- 7.3 In case of material defects in the Products supplied the Seller is initially obligated and entitled to repair them or supply replacements according to his choice, which is to be made within an appropriate period. If the supplementary performance fails, i.e. in case of impossibility, unreasonableness, refusal or unreasonable delay with regard to the rectification or replacement, the Customer may withdraw from the contract or reduce the purchase price reasonably. The Seller has the right to predicate the supplementary performance due on whether the Customer pays for the purchase price due. The Customer is however entitled to retain a part of the purchase price which is reasonable in the ratio to the defect.

7.4 If a defect is caused by the Seller, the Customer may demand payment of damages under the conditions stipulated in Section 8.

7.5 In case of defects of Products from other manufacturers that cannot be eliminated by the Seller for reasons of licensing or other practical reasons, the Seller can assign his warranty claims against the manufacturer and suppliers to the Customer. In the case of such defects, there are warranty claims against the Seller under the other prerequisites and in accordance with the stipulations of these General Terms of Delivery only if the judicial enforcement of the aforementioned claims against the manufacturer and suppliers has been unsuccessful or, for example, there is no reasonable chance due to insolvency. During the duration of the legal dispute, the statute of limitation shall be suspended for all corresponding warranty claims of the Customer against the Seller.

7.6 The warranty becomes invalid if the Customer modifies the delivered Product without the approval of the Seller or allows this to be done by third parties and the remedying of the defect is made impossible or unreasonably harder because of this. In each case the Customer must bear the additional costs of remedying defects caused by the modification.

7.7 A supply of used Products agreed in individual cases with the Customer takes place under exclusion of any guarantee for material defects.

8. Liability

8.1 The Seller shall be liable for damages from simple negligence only resulting from breaches of material contractual obligations whose fulfillment are essential for the proper execution of the contract and on the observance of which the Customer regularly relies on, or may rely on. In such case, however, liability shall be limited to the typically foreseeable damages. The said limitation of liability shall equally apply to damages caused by the gross negligence by employees or representatives who are not authorized directors ("*Organe*") or managerial staff ("*leitende Angestellte*") of the Seller.

8.2 In the events specified in Section 8 (1), the Seller's obligation to pay compensation is limited to an amount of EUR 2,000,000 (in words: "Euro two million") per claim.

8.3 In cases of Section 8 (1), we shall not be liable for loss of income, consequential or indirect damages.

8.4 In cases of Section 8 (1), a claim shall be time-barred after the expiry of two years from the time at which the claim arose and at which the Customer learned of the circumstances underlying the claim. Regardless of the Customer's knowledge, the claim lapses three years after the event causing the damage. The statute of limitation for claims for damages due to defects is based on Section 7 (1).

8.5 The above mentioned limitations of liability do not apply to liability (a) for damages resulting from culpable injury to life, body or health, (b) because of willful misconduct, (c) due to gross negligence of authorized directors ("*Organe*") or managerial staff ("*leitende Angestellte*") of the Seller, (d) due to fraudulently concealed defects, (e) arising from provision of a guarantee of quality of the Product (any rules on liability or time-barring arising from the guarantee shall also apply) and (f) from the German Product Liability Act ("*Produkthaftungsgesetz*").

8.6 To the extent to which the liability of the Seller is excluded or limited in Sections 8 (1) to (5) above, this shall also apply to claims for damages of the Customer against agents, members of authorized directors, managerial staff, employees or contractors of the Seller.

9. Retention of title

9.1 The delivered Product remains the property of the Seller ("Reserved Goods") until full settlement of all claims the Seller may have against the Customer from the current business relationship. If a current account relationship exists in the scope of the business

relationship, the Seller shall retain ownership of the delivered Product until the receipt of all payments from recognized balances.

9.2 The Customer shall only be authorized to dispose of the Reserved Goods in case of sale in the ordinary course of business and when it is certain that the claims resulting will pass to the Seller.

9.3 With the conclusion of the contract, the Customer assigns to the Seller as security its rightful claims, and all secondary claims, arising from disposal or on other legal grounds pertaining to the Reserved Goods. The Customer shall remain entitled to collect such claims after such assignment. The Seller's authorization to collect the claims themselves shall not be affected thereby. The Seller shall not collect the claims as long and insofar as the Customer meets its payment obligations, insolvency or similar proceedings have not been instituted, and no suspension of payments is in force. The Customer shall immediately notify the Seller in writing if one of these events occurs. Upon Seller's request the Customer shall disclose the assignment to the debtors and provide Seller with the information, and hand over to the Seller the records necessary to assert our rights.

9.4 After rescission of the contract and irrespective of the Seller's other rights, the Seller shall be entitled to take the Reserved Goods back from the Customer and to enter the Customer's business premises for this purpose during ordinary office hours. After collection and upon prior warning, the Seller shall be entitled to realize the value of the Reserved Goods as appropriate. The proceeds of such realization shall be offset against the Customer's liabilities, minus reasonable costs of realization.

9.5 The Customer shall treat the Reserved Goods with care, have them maintained as necessary at its expense, and insure them appropriately. The Customer shall immediately notify the Seller of any third-party access to, or claims against, the Reserved Goods or the claims assigned to the Seller (e.g. attachments).

9.6 Any conversion or reconfiguration of the Reserved Goods by the Customer shall take place on behalf of the Seller. If this takes place with external items not belonging to the Seller, or the Reserved Goods are inseparably mixed or combined with such external items, the Seller shall acquire co-ownership of the new item in proportion to the value of the Reserved Goods in relation to the external items. Besides, the same shall apply to the new item as to the Reserved Goods. If combination takes place in such a way that the Customer's item must be deemed the main item, the Customer shall transfer proportionate co-ownership to the Seller.

9.7 If, in the event of sales to foreign countries, the retention of title agreed in this Clause 9 requires further action to be taken to make it effective (e.g. registration), the Customer shall undertake such action immediately. If, in such sales the local law does not allow the retention of title agreed in this Clause 9 with the same effect as in German law but other surety rights exist in favour of the Seller, the Seller shall be authorized to exercise all such rights. The Customer shall co-operate with such measures as the Seller may wish to take to protect its rights of title or any other right to the Reserved Goods in substitution of its said rights of title.

10. Final provisions

10.1 Jurisdiction for any disputes arising from the business relationship between the Seller and the Customer is at the discretion of the Seller Neuss or at the location of the Customer. For claims against the Seller Neuss is the exclusive place of jurisdiction. Mandatory legal provisions about exclusive jurisdictions remain unaffected by this provision.

- 10.2 The relationship between the Seller and the Customer is exclusively subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG) does not apply.
- 10.3 Should any of the provisions of these General Terms of Delivery prove ineffective, this shall not affect the validity of the remaining provisions.
- 10.4 The Customer may not assign all or part of its rights and obligations without the Seller's prior written consent. The Seller may assign the rights and obligations incumbent on him to affiliated companies within the meaning of § 15 Stock Corporation Act (AktG).

11. Compliance with regulations, export and waste disposal

- 11.1 The Customer must comply with all applicable statutory regulations, regulatory and official requirements and in particular all relevant export control, export and import regulations of the EU and the USA. The Customer must obtain all necessary authorizations, permits and licenses in a timely manner, in particular those required for import and export, for resale or use of the Product.
- 11.2 The Customer must observe all operating, usage, warning and disposal instructions of the manufacturer made available to him.
- 11.3 In the event of a breach of his obligations under Sections 11.1 and 11.2, the Customer exempts the Seller from claims of third parties. The Seller may retain the delivery to the Customer if there are reasonable grounds to suspect that the Customer would violate these obligations or if not all required authorizations, permits or licenses exist and this is not due to the fault or responsibility of the Seller.
- 11.4 The Seller does not take back any transport packaging and other packaging listed in the packaging regulations. The Customer shall dispose of these packaging at his own expense. This does not apply if the Customer is a private end user in the sense of the packaging regulations.
- 11.5 The proper disposal of the Product is the responsibility of the Customer. Insofar as the Seller is obligated to do so due to mandatory statutory requirements, the Seller shall take back the Products manufactured by him at the request of the Customer for the purpose of disposal. The resulting reasonable costs shall be borne by the Customer.