

General purchase terms and conditions

of IMI Cornelius Deutschland GmbH
To be used in dealing with all merchants and businesses

§ 1 General scope

1. These terms and conditions of purchase apply to the entire course of business with suppliers and other contractors (hereinafter altogether referred to as the "Supplier"), as far as not altered by any express written agreement between both parties, in particular as far as not differently established in any separate, individual purchase contract.
2. Should any discrepancy arise between the delivery terms and conditions or any other terms and conditions of the supplier and the provisions of the IMI Cornelius purchase terms and conditions, or should any terms and conditions of the supplier go beyond the scope of these IMI Cornelius purchase terms and conditions, the respective terms and conditions of the supplier shall hereby expressly be excluded. Even if IMI Cornelius Deutschland GmbH (hereinafter referred to as "IMI Cornelius") refers to any correspondence containing terms and conditions of a supplier or third party, or to any correspondence which might refer to any such supplier or third party terms and conditions, this fact shall not imply that IMI Cornelius agrees with any of such terms and conditions in any way.

§ 2 Orders and assignments

1. The supplier is obliged to confirm any order made by IMI Cornelius in writing within 8 days. As far as a potential order made by IMI Cornelius does not contain a binding period, IMI Cornelius shall be bound to this potential order for a term of 8 days from the date of issuing. Essential for whether or not the order is accepted by the supplier in due time is the date when the declaration of acceptance is received by IMI Cornelius.
2. IMI Cornelius shall be entitled to change the time and place of delivery as well as the type of packaging by written notice at any point in time, and with a term of at least 7 calendar days before the originally agreed date of delivery. The same shall apply to any modification of a product specification, as far as it can be implemented within the course of the regular production process of the supplier without the requirement of any significant additional time, whereas the term of notification in accordance with the previous sentence shall amount to 14 calendar days in this case.
3. IMI Cornelius shall be entitled to cancel the contract by written declaration under indication of reasons, at any point in time, if IMI Cornelius can no longer use the ordered products in the regular course of its business due to circumstances that occurred after the conclusion of contracts.

§ 3 Prices, payment terms and data for invoicing

1. The price specified in the order of IMI Cornelius is binding.
2. Unless agreed otherwise in writing, this price shall always include delivery and transport to the shipment address specified in the contract including packaging.
3. As far as the price according to the made agreement does not include any packaging and the price for packaging is not expressly defined, packaging shall be charged at a verifiable cost price, as long as packaging is not provided as a returnable packaging. The supplier must return the packaging at the supplier's own expense upon request by IMI Cornelius. The supplier shall be obliged to return a minimum of 2/3 of the price specified for packaging by the supplier to IMI Cornelius in the event that IMI Cornelius requests the return of packaging.
4. As far as not agreed otherwise, IMI Cornelius shall pay the purchase price within 14 days from the date of goods delivery and receipt of invoice with 3% cash discount, or net within 60 days.

5. The ordering number, item number, quantity of delivery items and delivery address of IMI Cornelius must be specified in all order confirmations, delivery documents and invoices issued by the supplier. Should one or more of these specifications be missing, and the processing in the regular course of business at IMI Cornelius or any third party contracted as per assignment be delayed as a result, then the terms of payment in accordance with the previous provision are prolonged by the period of this delay.

§ 4 Delivery time and delivery

1. Delivery must be made within the term defined in writing in the order or purchase contract. As soon as the supplier does not comply with the delivery date or the delivery term as defined in the order or purchase contract, the supplier shall be in default without the requirement of any additional specific statement or any other activity on the part of IMI Cornelius.
2. All orders must be delivered complete, except if partial deliveries are expressly agreed in individual cases, or if IMI Cornelius has expressly agreed to partial delivery in writing. IMI Cornelius shall be entitled to reject any partial delivery if not agreed. Delivery must only be made to the headquarters of IMI Cornelius or the individually specified place of delivery if different, and only during the IMI Cornelius' business hours. IMI Cornelius must be informed about the date of delivery by the supplier within an appropriate period in advance.
3. All delivered items must be provided with barcode labels for P/N (part number) and part designation.
4. Each delivery must be accompanied by the related delivery note so that it is instantly recognisable. The delivery note must in particular specify the following data:
 - Part number and ordering number of IMI Cornelius;
 - Part designation;
 - Total quantity of delivery;
 - Batch or lot number;
 - Number of shipment units, where the shipment units must be specified per batch or lot if different batches or lots are used.
5. The supplier shall be obliged to inform IMI Cornelius in writing if any delay in delivery occurs or has to be provided for.
6. In the event that the delivery is delayed, IMI Cornelius shall be entitled to their statutory rights in an unlimited way, including the right of withdrawal from the contract and the right of being compensated for any damage instead of enforcing delayed performance after unfruitful expiry of an appropriate term for completion for delayed contract performance.
7. IMI Cornelius shall be entitled to request payment of a contractual penalty in the amount of 0.5% for every started week up to a maximum of 10% of the corresponding order value by the supplier in the event of a delayed delivery, and after having given a previous written warning notice. The contractual penalty is to be added to the damage due to the delay in delivery to be compensated by the supplier.

§ 5 Place of performance and transfer of risk

1. Place of performance is the location of IMI Cornelius' headquarters, or the warehouse or any other destination as specified in the order. If the corresponding specification is missing in the order, the place of performance for any delivery shall be the address of the headquarters of IMI Cornelius, except if differently agreed in writing.
2. The risk of accidental loss and of accidental deterioration of goods is only transferred to IMI Cornelius upon proper delivery at the place of performance.

§ 6 Quality control

1. Regardless of their legal and/or contractual obligations for quality control, the supplier shall be obliged to comply with all regulations in the contractual relationship with IMI Cornelius, like with the legislation for waste disposal of electric and electronic equipment (WEEE, RoHS conformity), EEC REACH Ordinance, etc., as well as to perform all quality inspections as applicable in accordance with the legislation of the Federal Republic of Germany, like AQL 1.5 in accordance with DIN ISO 2859, etc., and to enclose this documentation with each delivery.
2. In the event of a complaint by a public authority concerning a product delivered to IMI Cornelius, the supplier shall be obliged to comprehensively support IMI Cornelius in clarifying the cause of any such detected defect of a product.
3. IMI Cornelius shall be entitled to inspect the production and/or warehouse facilities of the supplier by using IMI Cornelius' own employees or an independent quality controller, at any point in time.
4. All IMI Cornelius items, for which the corresponding drawings or specifications are available, must be manufactured in accordance with these drawings or specifications. In the event of non-compliance, these goods will be rejected.

§ 7 Ownership protection

1. IMI Cornelius reserves the right of ownership and the copyrights on all orders and assignments submitted to the supplier by IMI Cornelius, as well as on all drawings, figures, calculations, descriptions and other documentations provided to the supplier by IMI Cornelius. The supplier must never give any third party access to these documents, nor publish them, disclose them, utilise them or copy them, nor must the supplier allow this to happen by any third party. These documents including any potential copies of them must completely be returned to IMI Cornelius upon request by IMI Cornelius if they are no longer required by the supplier in the regular course of their business, or if the negotiations between the parties do not lead to the conclusion of contracts.
2. All tools, pieces of equipment and models provided to the supplier by IMI Cornelius, or manufactured for the contractual purpose and separately charged to the supplier by IMI Cornelius, either remain or become the property of IMI Cornelius. The aforementioned tools, pieces of equipment and models must clearly be identified as the property of IMI Cornelius, carefully be preserved, protected from damage of any kind, and exclusively be used for the purpose of the contract. Costs for maintenance and repair of any such items must be borne by the supplier, as long as no different agreement has been made. The supplier is obliged to immediately inform IMI Cornelius of any kind of damage occurred to any such items, and not just of any substantial damage. Upon request, the supplier shall be obliged to return these items to IMI Cornelius in a proper condition, if they are no longer required for proper performance under the contracts concluded with IMI Cornelius.

§ 8 Warranty claims

1. Any claims with respect to quality and/or quantity defects shall be deemed as timely delivered, as long as IMI Cornelius has given notice to the supplier within a period of 20 working days from the date of receipt of goods at IMI Cornelius. Any hidden defects in a delivered item shall be deemed as timely delivered if the notice is given to the supplier within a period of 40 working days after its discovery.
2. IMI Cornelius does not waive any right to claim for compensation of damages, because it has simply approved or accepted a sample or prototype provided to IMI Cornelius.
3. Upon receipt of the written notice of defect, received by the supplier and issued by IMI Cornelius, the expiry of period of limitation shall be suspended. In the event of a replacement delivery and/or rectification of defect, the warranty period for any replaced and/or repaired parts shall again start from the beginning, except for cases, in which IMI Cornelius had to assume as a result of the supplier's reaction, that the supplier does not deem themselves obliged to this action, but only performs the replacement delivery of rectification of defects purely for goodwill or similar reasons.

§ 9 Supplier liability - in particular extended product liability

1. If the supplier bears liability for a product sold to IMI Cornelius to any third party, then the supplier must indemnify IMI Cornelius from any claims of this third party upon IMI Cornelius' initial request, if this third party makes a claim on IMI Cornelius as a result of the product defect, as long as the product defect falls under the management and organisational responsibility of the supplier. The same shall apply for any potential costs of a recall action initiated by a public authority or body due to a product defect.
2. The supplier shall be obliged to take out a product indemnification insurance policy with respect to the products sold to IMI Cornelius, which ensures that all damages caused by a product defect are covered by the insurance policy. The supplier shall also be obliged to assign any claims to IMI Cornelius the supplier might have from the indemnification insurer, upon request by IMI Cornelius, if a third party asserts any claims from IMI Cornelius.

§ 10 Trade mark rights

1. The supplier shall bear liability for ensuring that no trade mark rights of any third party in any country of the European Union, North America or any other country are violated in connection with the supplier's delivery, in which the supplier manufactures these products or has them manufactured.
2. The supplier shall be obliged to indemnify IMI Cornelius from any claims which a third party asserts due to a violation of trade mark rights as described in article 1, and to compensate IMI Cornelius for all costs required in connection with this assertion of claims. This entitlement shall apply regardless whether this was the supplier's fault or not.

§ 11 Spare parts

1. The supplier shall be obliged to keep spare parts for the products delivered to IMI Cornelius in stock for a period of at least 7 years after delivery.
2. If the supplier intends to terminate the production of spare parts for products delivered to IMI Cornelius, the supplier must notify IMI Cornelius immediately after making the decision on termination, and this decision must be made at least 12 months before the production is terminated, subject to section 1.

§ 12 Non-disclosure

1. The supplier is obliged to non-disclosure concerning the conditions of purchase as well as any information and documents provided for this purpose (except for any publically accessible information) for a period of 5 years after conclusion of contracts, and to exclusively use them for the processing of orders. The supplier has to immediately return any of this information and documentation to IMI Cornelius after the processing of enquiries or orders upon request.
2. Without any previous agreement by IMI Cornelius, the supplier must never indicate the business connection between the supplier and IMI Cornelius in any advertisement materials, leaflets, etc., and must never exhibit any delivery items manufactured for IMI Cornelius.
3. The supplier has to bind the supplier's subcontractors to adherence with above paragraphs 1 and 2.

§ 13 Reservation of title

Reservation of title with respect to the delivered goods is transferred to IMI Cornelius upon full payment. IMI Cornelius shall, however, be entitled to sell the delivered goods earlier to a third party in IMI Cornelius' regular course of business.

§ 14 Assignment of claims

The supplier shall not be entitled to assign the supplier's claims resulting from the contractual relationship with IMI Cornelius to any third party. This shall, however, not apply as far as outstanding debts are concerned.

§ 15 Damage compensation

IMI Cornelius shall be held liable in any event of intent and gross neglect on the part of IMI Cornelius, or of any agent or vicarious agent of IMI Cornelius in accordance with the applicable legislation. As for the rest, IMI Cornelius shall only be liable in accordance with the product liability law due to any event of death, injury or health damage, or due to any culpable breach of fundamental contractual obligations. Compensation for the breach of fundamental contractual obligations shall, however, be limited to the foreseeable damage typical for this type of contract. Liability of IMI Cornelius shall also be limited to the foreseeable damage typical for this type of contract in any event of gross neglect, if none of the exceptional scenarios described in sentence 2 exists.

§ 16 Limitation period

The limitation period for claims and entitlements of IMI Cornelius due to defects of deliveries amounts to 4 years irrespective of the legal reasons. Application of this limitation period shall also be extended to any claims not in connection with a defect. This does not include longer official periods of limitation and regulations about the start of limitation, suspension of the period of limitation and the restart of such periods.

§ 17 Severability clause

If one or several provisions in these terms and conditions or in any contract, which is concluded on the basis of these terms and conditions, is or become ineffective, impracticable or incomplete, the remainder of these terms and conditions as well as of the corresponding contract shall remain unaffected by this. In such an event, the ineffective provision is to be replaced with the corresponding provision of the legislation.

§ 18 Final provisions with respect to jurisdiction and applicable law

Jurisdiction for any dispute arising from contracts concluded on the basis of these provisions shall be the court responsible for the location of IMI Cornelius' headquarters. IMI Cornelius shall however be entitled to bring the supplier to court at the supplier's jurisdiction. The law of the Federal Republic of Germany shall apply at all times.