

SEKISUI Diagnostics GmbH
Terms and Conditions of Sale

DEFINITIONS

Buyer” means any person or entity which makes Orders for Products from Sekisui Diagnostics GmbH; **“Conditions”** means these terms and conditions; **“Contract”** means these Conditions accompanying an Order confirmation accepted by the Buyer; **“Order”** means the purchase Order containing the details of the Conditions; **“Price”** means the Price for the Products as indicated on the accompanying invoice or quotation provided by Sekisui; **“Products”** means those items to be supplied to the Buyer by SEKISUI under the terms of this Contract; **“SEKISUI”** shall mean SEKISUI Diagnostics GmbH; SEKISUI and Buyer may be referred to hereinafter collectively as the **“Parties”** and separately as a **“Party.”**

GENERAL

These Conditions apply to the accompanying Order confirmation and Contract. Any such acceptance is limited to the express terms of these Conditions.

PRODUCT ORDERS AND ACCEPTANCE

All Orders of Buyer are subject to acceptance by SEKISUI. No Order shall be binding on SEKISUI until accepted by SEKISUI in writing, and SEKISUI shall have no liability to Buyer with respect to Orders that are not accepted. Buyer shall not be entitled to revoke, re-schedule or cancel any purchase Order after SEKISUI has delivered its acceptance to Buyer without SEKISUI’s written consent. All Orders shall identify the Products ordered, the quantity sought, the requested delivery date(s), and such other information as may be necessary to enable SEKISUI to fulfil the Order. All quotations shall be available for acceptance for twenty-one (21) days from the date of issue but may be withdrawn by SEKISUI by written or oral notice to the Buyer at any time prior to SEKISUI’s acceptance of the Order. The Contract shall become binding on acceptance of the Order by SEKISUI.

PURCHASE PRICE AND PAYMENT

(a) SEKISUI shall deliver to Buyer an invoice for Products shipped to Buyer. The Price for the Products shall be exclusive of any VAT or any other sales taxes which shall be payable by the Buyer.

(b) Payment of the invoice in euros (€) shall be due: (i) not more than thirty (30) days after the date of the invoice and (ii) shall be remitted by wire transfer to such bank account as SEKISUI may from time to time designate, or by check delivered to SEKISUI or its agent at the address SEKISUI may from time to time designate. No part of any amount payable to SEKISUI may be withheld or reduced due to any counterclaim, set-off, adjustment or other right which Buyer might have against SEKISUI or any other person. If any payment is in arrears SEKISUI reserves the right to suspend further deliveries to the Buyer or to cancel the Order and require that all sums covered by existing invoices fall due immediately. Any

amount due and not paid within the payment period shall bear interest at the lower of: (a) 5% per annum or (b) the maximum lawful interest rate permitted by applicable law. Such interest shall accrue on past due amounts until paid in full.

(c) SEKISUI has the right to revise prices of the Products from time to time on reasonable written notice to the Buyer.

DELIVERY

(a) The delivery date is an estimated date of shipment using the means specified in the accompanying SEKISUI's confirmation. SEKISUI shall use reasonable efforts to deliver accepted Orders in accordance with its Conditions, and if no such date is stated, in a commercially reasonable time. SEKISUI may deliver all of the Products covered by an Order at one time-or in portions or lots, from time to time.

(b) Where the Buyer notifies SEKISUI that it is unable to take delivery of the Products in accordance with the time stated in the Order acceptance SEKISUI, may in its sole discretion, store the Products until actual delivery to the Buyer whereupon the Buyer will be liable for all related costs and expenses (including, without limitation, storage and insurance); and SEKISUI may, at SEKISUI's option, re-deliver the Products to the Buyer at the Buyer's cost and expense. if the Buyer fails to take delivery of the Products after twenty-one (21) days following the date of the scheduled delivery, SEKISUI may terminate the Contract.

(c) Where delivery is in instalments each delivery shall constitute a separate Contract and no cancellation or termination of one contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other contract or instalment.

(d) If, for any cause, SEKISUI shall fail to make such deliveries within the time specified, this will not constitute a breach of the Conditions. SEKISUI shall not be liable for any damages of any kind by reason of such failure to deliver, or for delays in making deliveries.

TITLE AND RISK OF LOSS

With respect to any Order, the risk of loss, theft, destruction or damage to the Products, shall pass from Sekisui to Buyer upon delivery of the Products FCA/FOB (Incoterms 2020) SEKISUI's facility to the common carrier designated by Buyer or as set forth herein for shipment. Buyer shall, at its cost, insure the Products during the period that it holds the Products, or is deemed to be in possession of the Products, for their replacement value (i.e., market value) without limitation against fire, theft, loss and destruction. At SEKISUI's request, Buyer shall furnish to SEKISUI certificates of insurance evidencing the types and amounts of coverage.

SEKISUI shall retain all title, right and interest to all Products and have a lien on all Products delivered to Buyer until payment has been paid in full. Buyer agrees to execute any and all

documents which may be requested by SEKISUI in order to protect its interests or to evidence its ownership of any Product. Until title to the Products has passed from SEKISUI to Buyer, Buyer shall (i) store the Products separately from all other Products held by Buyer so that they remain identifiable as SEKISUI's property; (ii) maintain the Products in satisfactory condition and keep them insured against all risks for their full Price on SEKISUI's behalf from the date of delivery. SEKISUI may enter any premises of Buyer where the Products are stored in order to recover them. SEKISUI and its agents shall not be liable for any damage resulting from the enforcement of its right of repossession.

ACCEPTANCE AND REJECTION OF PRODUCTS

(a) Buyer shall inspect the Products upon receipt of each shipment of Products by Buyer or its agent. Products shall be conclusively deemed accepted, unless within ten (10) days following receipt of such shipment by Buyer or Buyer's agent, Buyer notifies SEKISUI in writing specifying any claims and any basis for rejection. If a complaint is not made to SEKISUI in accordance with this clause, the Products shall be deemed to be in all respects in accordance with the Contract and the Buyer shall be bound to pay the Price for such Products.

(b) Unless SEKISUI has authorized the return of any Product, SEKISUI shall not be obligated to accept, make any exchange or provide credit for any Product returned by Buyer. SEKISUI reserves the right to investigate the complaint before the remainder of the consignment of the Products is used or returned to SEKISUI. If SEKISUI desires that Buyer return a Product, Buyer shall return the same to SEKISUI freight prepaid and in the original packaging free from damage. SEKISUI will provide Buyer a credit to be applied against Buyer's future purchase Orders equal to the freight charges prepaid by Buyer for properly rejected Products. Buyer shall look solely to carrier for any damage to the Products in transit. Buyer recognizes that the Products may have variations in analysis and composition that are within normal commercial tolerances due to manufacturing processes and agrees that delivery of Products that are within industry standard or customary variations, tolerances and levels will be acceptable. SEKISUI will not accept returns directly from buyers of Buyer.

TERMINATION

(a) Either Party may terminate this Contract in the event the other Party is in material breach of its representations, warranties, covenants or obligations under this Contract and such breach is not cured within thirty (30) days after receiving written notice from the non-breaching Party specifying the nature of the failure to perform or breach.

(b) Either Party may terminate this Contract immediately by providing written notice if the other Party: (a) applies for or consents to the appointment of a receiver, trustee, liquidator or custodian of itself or of all or a substantial part of its assets; (b) makes a general assignment for the benefit of its creditors; (c) is dissolved or liquidated in full or in substantial part; (d) commences a voluntary case or other proceeding seeking liquidation,

reorganization or other relief with respect to itself or its debts under any bankruptcy or insolvency

(c) Either Party may terminate this Contract without cause upon one hundred and twenty (120) days advance written notice to the other Party.

(d) SEKISUI may terminate by written notice, if the Buyer has harmed the name or business of SEKISUI.

WARRANTIES

The Products shall conform in all material respects to the specifications in effect as of the date of shipment. Any warranty claim shall be submitted in writing to SEKISUI within the applicable shelf life for the Product as set forth in the specifications. Except as set forth above, SEKISUI makes no representations or warranties, whether express or implied, including without limitation any implied warranty of merchantability or fitness for a particular purpose or the non-infringement of any third party patent or other proprietary right with respect to the Products supplied under these Conditions, Buyer recognizes that the Products require handling and storage under appropriate environmental Conditions. Buyer or its Buyer shall be solely responsible for handling and storage of the Product following shipment by SEKISUI. Any damage or deterioration of the Product due in whole or in part to such causes shall be the sole responsibility of the Buyer or its Buyer.

LIMITATION OF LIABILITY

Nothing in these Conditions shall limit or exclude the SEKISUI's liability for: death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; fraud or fraudulent misrepresentation; breach of the terms implied by section 12 of the sale of Products act 1979; defective Products under the consumer protection act 1987; or any matter in respect of which it would be unlawful for SEKISUI to exclude or restrict liability. SEKISUI shall under no circumstances be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with these Conditions. SEKISUI's total liability to the Buyer in respect of all other losses arising under or in connection with these Conditions, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Price of the Products.

INTELLECTUAL PROPERTY RIGHTS

SEKISUI owns all rights, title and interest in the Products and in all of SEKISUI's patents, trademarks, trade names, inventions, copyrights, know-how, and trade secrets relating to the design, manufacture, operation or service of the Products. The use by Buyer of any of these intellectual property rights is authorized only for the purposes herein set forth, the Buyer shall have no rights in respect of any intellectual property rights belonging to SEKISUI nor any goodwill associated therein. the Buyer is not allowed to modify, change or remove any

trademarks or other intellectual and industrial rights on the Products. Upon termination of the Contract for any reason such authorization shall cease.

CONFIDENTIALITY

“Confidential Information” means any and all information, communications, regardless of whether such information is specifically designated as confidential and such information is in written, oral, electronic, or other form, which includes, without limitation, any technical, scientific, business or other information that may be disclosed by one party to the other. Neither Party shall disclose the Confidential Information of the other Party without the other Party’s prior written consent. Each Party shall protect the Confidential Information with the same degree of care as it normally uses to preserve and safeguard its own proprietary information of like nature, but not less than a reasonable degree of care and shall promptly inform the other Party as soon as it becomes aware of any breach of this clause. Confidential Information shall not be deemed to include information which the Receiving Party can demonstrate by competent written proof: (i) was necessary to disclose for the legitimate purposes contemplated by these Conditions and with the other Party’s prior written consent; (ii) was in the public domain prior to the time of its disclosure under this Contract; (iii) entered the public domain after the time of its disclosure under this Contract through means other than an unauthorized disclosure resulting from an act or omission by the Receiving Party. If SEKISUI and the Buyer have entered into a separate Confidentiality Agreement, to the extent that they are inconsistent and there is a conflict between the terms of such Confidentiality Agreement and the terms of this Clause, the terms of the Confidentiality Agreement shall prevail.

ASSIGNMENT

The Contract shall not be assigned and is not assignable or delegable by Buyer without the prior written consent of SEKISUI, which consent shall not be unreasonably withheld. SEKISUI may without written consent assign or sub-contract all or any part of its rights and obligations hereunder.

FORCE MAJEURE

SEKISUI shall not be liable for any failure to perform hereunder due to force majeure, including, but not limited to, forces of nature, war, riots, pandemic, fire, explosion, epidemic, strike, injunction, labour dispute or shortage, freight embargo or transportation delay, inability to obtain fuel, accident, mechanical breakage, failure or malfunction of machinery or apparatus, national defence requirements, or any cause beyond the reasonable control of Sekisui, which prevents, delays, or hinders the manufacture or shipment of the Products or of a material upon which the manufacture of the Products is dependent. If the circumstances of the force majeure event exists for more than sixty (60) days, then either Party may terminate the Contract upon thirty (30) days advance written notice without incurring any liability whatsoever.

ENTIRE CONTRACT AND SEVERABILITY

These Conditions constitute the entire Contract between the parties and no amendment hereof shall be effective without a writing signed by SEKISUI. Oral amendments, oral waivers and purported terminations are void. If any provision of these Conditions is declared invalid or unenforceable, all other provisions shall remain in full force and effect.

VARIATION

SEKISUI hereby rejects any proposal for additional or different terms or any attempt by the Buyer to vary any of the terms set forth in these Conditions including, without limitation, all pre-printed or other terms and Conditions of any purchase Order or acknowledgement submitted by the Buyer. No modification or changes to these Conditions shall be binding upon the SEKISUI unless in writing and signed by an authorized representative of the SEKISUI. To the extent that they are inconsistent, these Conditions shall not apply to any Buyer who has entered into a master supply or distribution Contract with SEKISUI which governs the sale and purchase of the Products and is in place as of the date of shipment.

ENTIRE CONTRACT AND VARIATION

These Conditions constitute the entire Contract and understanding between the Parties with respect to the subject matter hereof and supersedes and cancels any previous Contracts or understandings, whether oral, written or implied, heretofore in effect, and sets forth the entire Contract between SEKISUI and Buyer with respect to the subject matter hereof. No Contracts amending, altering, or supplementing the terms hereof may be made except by a written document signed by duly authorized representatives of the Parties. To the extent that they are inconsistent, these Conditions shall not apply to any Buyer who has entered into a master supply or distribution agreement with SEKISUI which governs the sale and purchase of the Products and is in place as of the date of shipment.

WAIVER AND SEVERABILITY

A waiver of any right or remedy under these Conditions or law is only effective if given in writing and shall not be declared a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under these Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of that right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. If any provision of these Conditions is declared invalid or unenforceable, all other provisions shall remain in full force and effect as if this Contract had been agreed with the invalid or unenforceable provision eliminated.

THIRD PARTY RIGHTS

A person who is not a party to this Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Conditions.

GOVERNING LAW AND JURISDICTION

These Conditions, and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the law of Germany. The Parties hereby submit to the exclusive jurisdiction of the courts of Germany in respect of any claim or dispute arising out of or in connection with this Contract and each Order or their subject matter or formation (including non-contractual claims or disputes). Application of the U.N. Convention on Contracts for the International Sale of Products is expressly excluded.