

General Terms of Sale and Supply for the CustomBiotech Business EMEA-LATAM of Roche Diagnostics Deutschland GmbH

As of 01 January 2020

1. **General – Scope**

These General Terms of Sale and Supply apply to all sales of Roche's Products to Industrial Customers. The term "**Industrial Customer**" shall mean customers who use Roche Products to further process them into finished or semi-finished products which are then further commercialized to their own customers.

2. **Definitions**

In these Conditions, the following definitions apply:

Affiliate: (a) an organisation, which directly or indirectly controls a party to a Contract; (b) an organisation, which is directly or indirectly controlled by a party to a Contract; (c) an organisation, which is controlled, directly or indirectly, by the ultimate parent company of a party to a Contract. Control as per (a) to (c) is defined as owning more than fifty percent of the voting stock of a company or having otherwise the power to govern the financial and the operating policies or to appoint the management of an organisation. With respect to Roche the term "Affiliate" shall not include Chugai Pharmaceutical Co. Ltd., 1-1, Nihonbashi-Muromachi 2-chome, Chuo-ku Tokyo, 103-8324, Japan ("**Chugai**"), unless Roche opts for such inclusion of Chugai by giving written notice to Buyer.

Business Day: a day other than a Saturday, Sunday or public holiday in Germany.

Buyer: the person or company buying the Products from Roche, as indicated in the Order.

Call-Off Period: the period of time for the call-off of Products as specified in a respective Quantity Contract.

Call Order: has the meaning set out in Section 4.1.

Conditions: these General Terms of Sale and Supply for the CustomBiotech Business EMEA-LATAM of Roche Diagnostics Deutschland GmbH.

Consumable: a Product that is a consumable, disposable, reagent, kit, partially finished good or raw material.

Contract: the contract between Roche and Buyer for the supply of Goods and/or Services in accordance with these Conditions, including Individual Contracts and Quantity Contracts.

Documentation: Roche's user manual, package insert, warning instructions and similar documentation, for Product in effect on the date that Product ships from Roche. Documentation may be provided with Product at time of shipment or provided electronically from Roche.

Force Majeure Event: has the meaning set out in Section 10.1.

Further Process: the further processing and/or incorporation of Products into another finished or semi-finished product, excluding the use of a Product as a stand-alone product.

Individual Contract: a Contract where the Order is an Individual Order.

Individual Order: an Order that either, as the case may be, is in Buyer's purchase order form, or accepts in writing a quotation by Roche, where the purchase order or the quotation specifies the quantity of ordered Products to be delivered on one delivery date.

Instrument: a Product that is an instrument, apparatus, machine, system, or other durable, excluding Consumables.

Order: any order in Buyer's purchase order form, or in Buyer's written acceptance of Roche's quotation, as the case may be, including Individual Orders and Quantity Orders.

Product(s): the products to be provided by Roche under the Contract as described in the Contract and as further specified – if any – in the Specification.

Quantity Contract: a Contract where the Order is a Quantity Order.

Quantity Order: an Order that either, as the case may be, is in Buyer's purchase order form, or accepts in writing a quotation by Roche, where the purchase order or the quotation specifies the quantity of ordered Products to be delivered (a) on more than one delivery dates in the Call-Off Period, or (b) in one or more deliveries upon Call Order(s) by Buyer within the Call-Off Period.

Reverse Engineer: to decompile, analyze, disassemble, test, or observe a Product or Software.

Roche: Roche Diagnostics Deutschland GmbH.

Specification: Roche's complete and accurate description of the shape, appearance, features, functionality, and – if applicable – labeling and packaging information, and characteristics of a certain Product in effect on the date that Product ships from Roche.

Software: computer programs, libraries and related non-executable data, including related documentation.

3. **Basis of Contract**

3.1 An Order constitutes an offer by Buyer to purchase Products in accordance with these Conditions.

3.2 The Contract shall come into existence:

- in the event the Order is an acceptance without any further conditions or any other deviations from a quotation by Roche: as of the point and date of receipt of such Order by Roche, or
- in the event the Order (a) contains any further conditions or any other deviations from Roche's quotation, or (b) the Order is issued without regard to Roche's quotation: as of Roche issuing written acceptance of the Order.

3.3 In the event of any inconsistencies between Roche's ordering documents (order confirmation or quotation) and these Conditions, the text in the ordering documents shall prevail; the same shall apply to the text of the body of any other individual agreement between Roche and Buyer that refers to these Conditions.

3.4 Section 3.2 notwithstanding, Roche reserves the right to apply the prices in effect at the time of shipment.

3.5 These Conditions apply to the Contract to the exclusion of any other terms that Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Such Buyer terms will not become part of the Contract unless Roche consents to their applicability expressly and in writing on an individual basis

4. **Quantity Contracts**

A Quantity Contract shall be treated like any other Contract, subject to the provisos that:

4.1 To the extent the Quantity Contract does not specify delivery dates, Buyer shall call-off the quantity of Products contained in the Quantity Contract by call order(s) (each a "**Call Order**") during the Call-Off Period.

4.2 Section 5.4 notwithstanding, to the extent the Quantity Contract specifies delivery dates, Roche has the right to deliver the respective quantities of Products on such date(s) without having received a Call Order.

4.3 Subject to express specification or restriction in the Quantity Contract, the quantities of Product per Call Order and the dates of each Call Order shall be subject to Buyer's commercially reasonable discretion; Roche reserves the right to ag-

- gregate the Product quantities of several Call Orders into one delivery if the quantities called-off are unreasonably small and the respective delivery dates are not unreasonably delayed.
- 4.4 Buyer shall call-off the entire quantity of Products contained in a Quantity Contract by the last day of the Call-Off Period.
- 4.5 In the event that Buyer has not called off the entire quantity of Products contained in a Quantity Contract until two weeks prior to the lapse of the Call-Off Period, the then remaining quantity of Products shall be deemed called off without Call Order. In such case, Roche shall be entitled to deliver and invoice such remaining quantity in its own discretion.
- 4.6 Without limiting any other remedy available for such case, until the full satisfaction of any claim in connection with a Quantity Contract, including without limitation the payment of invoices under which, Roche reserves the right to retain the delivery of any or all of the remaining Products under such Quantity Contract.
- 5. Prices, Ordered Quantities and Delivery Deadlines**
- 5.1 All prices are net and subject to value-added tax at the legally valid rate, if applicable.
- 5.2 All listed prices (including any discounts) and other conditions listed in catalogs, brochures and price lists merely reflect the status on their date of issue. Orders shall be in accordance with the prices and conditions valid on the day of Roche's receipt of the Order. Roche will notify Buyer of the prices and conditions currently applicable.
- 5.3 The minimum order values listed in the valid catalogs and order forms shall apply unless otherwise agreed.
- 5.4 Delivery dates are non-binding unless confirmed in writing by Roche.
- 5.5 Roche's deliveries are subject to correct and timely delivery from its suppliers.
- 5.6 Buyer is obliged to examine the delivery date, and conditions of delivery, delivery quantity and Products to be delivered immediately upon receipt of the order confirmation, packing list, pro-forma invoice and/or invoice. If Buyer fails to notify Roche of any error in such document(s) at the latest within five (5) Business Days after Buyer's receipt of the respective document, any claims as to such error shall be excluded.
- 6. Packaging and Shipment**
- 6.1 Roche reserves the right to select the type of packaging. In case of dry ice shipments, Roche will charge a proportionate flat rate.
- 6.2 Deliveries will be on an Incoterm (Incoterms 2020) basis as stated in Roche's quotation or order confirmation. For lack of such statement, deliveries shall be made CPT (Incoterms 2020) Mannheim, Germany.
- 7. Transfer of Software Programs**
- 7.1 To the extent the Products (also) include Software, Roche grants to Buyer a non-exclusive, perpetual and geographically unrestricted right to use the Software in the object code and for the contractually agreed purpose. Such license also applies to any modification to the Software by Buyer; such modification shall be permitted only if it serves to remove defects which are not timely removed by Roche.
- 7.2 If Buyer purchases the Software, he shall be entitled to surrender the purchased copy of the Software to a third party, however subject to granting such third party only the rights to use the Software that Roche grants to the Buyer herein. In such case Buyer's rights to use the Software will terminate immediately, and Buyer shall remove any installed copies from his hardware system, and shall destroy all copies of the Software that he may have stored elsewhere. This Section 7.2 shall not apply in the event Buyer has rented the Software from Roche.
- 7.3 Reverse Engineering of the Software is only allowed if permissible under statutory law and only to the extent Roche has not made available the information required for establishing interoperability of an independently developed computer program although Buyer has requested Roche in writing to do so. In such case Reverse Engineering and the use of information found thereby is only allowed to the extent necessary to allow such interoperability.
- 7.4 Buyer is obliged to inform Roche about any defect or error it has found in the Software, even if such defect or error does not impair the intended use of the Software.
- 7.5 In no event shall Buyer be allowed to remove copyright information, serial numbers or any other identification feature from the Software.
- 8. Limitations of Use**
- 8.1 Deliveries from Roche might contain Products, which are limited in their use by the Buyer due to patent or license restrictions. Details of such limitations can be found in the respective catalog, the respective package insert or, if applicable, Roche's websites. They can further be obtained from Roche prior to or after execution of the Contract.
- 8.2 Without limiting the generality of Section 8.1, Buyer acknowledges that
- Roche's products are developed, designed, and labelled for sale for a variety of uses, including "For Further Processing only", "For Life Sciences Research" or "Research Use Only";
 - Product is intended exclusively for use as labelled (the "**Intended Use**");
 - Product labelled as "For Further Processing only", "For Life Sciences Research" or "Research Use Only" is not intended to be used for diagnostic or clinical purposes;
 - applicable laws may require Roche to obtain written confirmation from Buyer that Product is not being used for human diagnostic or therapeutic purposes. and
 - any permission, consent, approval or tolerance by Roche of a use or commercialization of the Product beyond the Intended Use is only valid if expressly set out in the Contract or otherwise made in writing by Roche.
- 8.3 Buyer shall not Reverse Engineer the Product unless such Reverse Engineering is necessary for the Intended Use. Buyer acknowledges that any result of a Reverse Engineering of the Product is Confidential Information proprietary to Roche.
- 9. Intellectual Property**
- 9.1 Buyer acknowledges that the intellectual property of Roche contained in the Products is and shall remain the exclusive property of Roche. With the exception of Products containing DNA Polymerase, Roche hereby grants a non-exclusive, worldwide, and paid-in-full, license to Buyer to use the Product for its Intended Use.
- 9.2 Other than as set forth in Section 9.1 hereof, the sale of the Products to Buyer does not grant Buyer any right, title, or interest in or to Roche's or any of its Affiliates' proprietary rights or information, including, but not limited to, Roche's or any of its Affiliates' name, trademarks, trade names, trade dress, trade symbols, copyrights, patents, patent applications, inventions, trade secrets, product names or designations, model names or numbers, processes, models, prototypes, designs or formulas.
- 9.3 It shall be Buyer's responsibility to ensure that Buyer's use or other commercialization of the Products does not infringe any third party's rights, and to acquire any licenses that may be necessary for such use or commercialization.
- 10. Force Majeure, Contractual Obstacles**
- 10.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure result from events, circumstances or causes beyond its reasonable control, including without limitation fire, flood, earthquake, explosion, riot, strike, lock-out, war, invasion, acts of foreign enemies, hostilities, civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, nationalization, requisition, destruction or damage to property by or under the order of any government or public or local authority or imposition of government sanction embargo or similar action, interruption or failure of utility service (any of such events a "**Force Majeure Event**").
- 10.2 The party claiming the Force Majeure Event will promptly notify the other in writing of the reasons for the delay or stoppage (and the likely duration) and will take all reasonable steps to overcome the delay or stoppage.

- 10.3 If a Force Majeure Event prevents, hinders or delays a party's performance of its obligations for a continuous period of more than three (3) consecutive months, the other party may terminate the Contract immediately by giving written notice, and neither party will be liable to the other for such termination.

11. Warranty

11.1 Warranty for Instruments

- 11.1.1 Roche warrants that all Instruments conform to the respective Specification and are properly packed at the time of delivery. This warranty shall apply for the shorter of 14 (fourteen) months starting with the date of arrival at the handling agent in the country of destination, or 12 (twelve) months starting with the date of installation (according to installation report) at the customer's site, unless otherwise agreed upon in writing.
- 11.1.2 In the event that such Instruments are defective and if written notice thereof is given to Roche in accordance with Section 12, Roche shall - if necessary - supply free of charge replacement parts to Buyer as soon as possible, and Buyer shall undertake to repair the defect at its own cost and expense, provided such defect is repairable.
- 11.1.3 For spare parts, a warranty period of 12 (twelve) months from the date of delivery will apply. Exchange of spare parts does not extend the warranty or warranty period as defined in Section 11.1.1 above.
- 11.1.4 In the event that an Instrument cannot be repaired during the warranty period, Buyer shall return such Instrument or the defective part to Roche at Roche's expense, according to a procedure agreed upon separately. Roche shall at its own expense deliver an equivalent Instrument to Buyer, if so requested by Buyer.
- 11.1.5 Section 11.1 shall not apply to Consumables, even so if purchased or delivered together with an Instrument.

11.2 Warranty for Consumables

- 11.2.1 Roche warrants that Consumables supplied to Roche hereunder conform to the respective Specification during the shelf life as stated on the Product packaging, but in no case for more than twelve (12) months from the date of delivery.
- 11.2.2 In the event that Consumables are defective upon delivery, and if written notice thereof is given to Roche in accordance with Section 12, Buyer shall at Roche's request and at its own cost return or dispose of the Consumables in question, whereupon Roche shall, at Roche's discretion, either replace the Consumables in question with like material, or refund the purchase price.
- 11.3 In terms of these Conditions, a Product is defective or contains defects if it does not conform to the Specification of such Product. If Specifications are not available or are not made part of a Contract, or conformance to Specifications is otherwise not legally admissible, defectiveness shall be deemed the freedom from defects in material and workmanship.
- 11.4 **Exclusion of warranty**

Roche's warranties for Products applies only to Products in the original container that has been handled and stored in accordance with Roche's recommendations and Documentation, and does not apply to Products that have been the subject of (i) abuse, misuse, neglect, negligence, accident, improper storage, or use contrary to the Documentation or Specifications, (ii) improper handling, installation, maintenance, or repair (other than if performed by Roche's personnel), (iii) unauthorized alterations, (iv) Force Majeure Events, or (v) use with a third party's good not provided by Roche (unless the Product's Documentation or Specifications expressly state such third party's good is for use with the Product).

12. Notification of Defects

- 12.1 Buyer's warranty rights presuppose that Buyer has fulfilled its obligations to immediately test for and immediately give notice of defects, delivery damages or shortages properly as follows:
- 12.1.1 **Visible Defects**. Defects, delivery damages or shortages visible upon incoming inspection shall be reported to ROCHE at the latest three (3) Business Days after delivery of the respective Products to Buyer.

- 12.1.2 **Non-visible Defects**. Defects and/or shortages which, despite thorough examination, were not apparent, shall be reported to ROCHE immediately upon their detection, yet at the latest one (1) year after delivery to Buyer.

- 12.2 If Buyer fails to timely notify in accordance with Section 12.1, any liability of Roche for such defects and/or shortages shall be excluded.
- 12.3 If any Product is damaged during transport, Roche shall undertake all necessary steps to enable Buyer to bring a claim for damages against the transport insurer. Buyer and/or Roche shall have the right to take samples of the damaged Product.
- 12.4 To enable the counterchecking of any alleged defect, Buyer shall upon Roche's request either submit to Roche documentary evidence, such as bills of delivery and packing slips in the original or as a copy, and inform Roche of any markings on the packaging, or follow Roche's instructions aiming at a correct and proper rectification of the defects.

13. Export and Import Control

Buyer acknowledges that goods or supplied objects (and the know-how as may be contained in such goods or objects) may be subject to an export or import control. Either party to a Contract bears the responsibility to comply with the relevant export and import control regulations. Moreover, Buyer understands that the US export control laws also apply if the goods or supplied objects, or parts thereof, are of US origin. This may happen even if the Contract does not include any further relation to the United States.

14. Liability

- 14.1 Other than with respect to liability (a) arising out of gross negligence or willful misconduct, (b) for culpable damage to life, body or health, (c) out of an expressly assumed guarantee, (d) under the German Product Liability Act and/or other national transposing measures of Directive 85/374/EEC, or (e) for which limitation is otherwise not legally admissible, Roche will not be liable for (i) any damages that exceed the loss which it foresaw or ought to have foreseen as a consequence of the breach of Contract, where foreseeability is measured at the time of the conclusion of the Contract in the light of the facts and matters of which Roche then knew or ought to have known, (ii) lost profits, or (iii) punitive damages.
- 14.2 To the extent the liability of Roche is excluded, the same shall apply to the liability of Roche's directors, employees and agents.
- 14.3 Roche will neither be held liable for the consequences of incorrect modification or treatment of the Products, nor - particularly where medical technology devices are concerned - for the damage caused by the use of unsuitable reagents, nor for the consequences of inadequate maintenance on the part of Buyer or a third party, nor for any defects attributable to normal wear and tear or transport.
- 14.4 Roche shall not be liable for any defects and the consequences thereof caused by Buyer using supplied Products and/or Software in combination with any hardware or software or any other components not tested and released by Roche. The same applies to any modification to hardware or software provided by Roche. This Section 14.4 does not apply to the extent Roche has previously agreed in writing to such action or use.
- 14.5 Roche shall only be liable for any loss of data and programs and their recovery within the scope of this Section 14. Roche shall not be liable for such damage if and to the extent such damage is attributable to the fact that Buyer did not take appropriate precautions against loss of data, in particular by making back-up copies of all programs and data. Back-up copies must be made at the time intervals customary in Buyer's field of activity, however at least once per day.

15. Payment

- 15.1 Payment shall be made within the term as stated in each invoice, unless otherwise agreed upon between the parties.
- 15.2 In the event of Buyer defaulting the payment term indicated in an invoice, Roche shall, without prejudice to its other rights and notwithstanding its right to claim any further damages, have the right to claim interests in the amount of nine (9) per-

centage points above the base interest rate (*Basiszinssatz*) pursuant to Sec. 247 German Civil Code (*Bürgerliches Gesetzbuch*).

- 15.3 Any taxes, tariffs and all duties of whatsoever nature levied by the authorities of the respective country with respect to payment due to Roche shall be borne by Buyer. Likewise, any and all other taxes and charges levied by the authorities of the respective country in connection with the conclusion and implementation of the Contract with Roche shall be borne exclusively by Buyer.
- 15.4 Payments are to be effected in the currency as indicated in each invoice. No other currency as a substitute for the currency mentioned will be accepted without the prior written consent of Roche. The obligation to make additional contributions in case of local currency devaluation to pay his liabilities in full shall remain with Buyer.
- 15.5 Payments shall be transferred to the following account:

Roche Diagnostics Deutschland GmbH
Deutsche Bank AG, Mannheim
Account Number: 015 67 60 00
S.W.I.F.T Code (BIC Code): DEUTDESMXXX
IBAN: DE74 6707 0010 0015 6760 00

Only payments that are made – in accordance with the respective invoice – in United States Dollars, shall be transferred to the following bank account:

Roche Diagnostics Deutschland GmbH
Deutsche Bank AG, Mannheim
S.W.I.F.T Code (BIC Code): DEUTDESMXXX
IBAN: DE42 6707 0010 0010 2632 00

- 15.6 Roche reserves the right to use payments to settle the oldest payments due plus the default interest and costs accrued thereon; this will be done in the order costs, interests due, and principal amount.
- 15.7 Buyer is entitled to offset against Roche's claims only by written instrument, and if Buyer's counterclaim is uncontested or subject of a non-appealable order.
- 15.8 Any right of retention of payment is subject to the entitling claim arising from the same contractual relationship and either being (a) acknowledged by the debtor or (b) subject of a non-appealable order.
- 15.9 Roche is entitled to refuse delivery if at the time of due delivery Buyer is demonstrably of poor financial standing and the satisfaction of Roche's payment claims are hence jeopardized ("**Deterioration**"). Roche's right to refuse performance shall terminate once payment has been made or Buyer has put up adequate collateral. Roche may set Buyer an appropriate deadline within which Buyer either has to make payment or to provide collateral. Once the deadline has lapsed without success, Roche has the right to terminate the Contract. Furthermore, in the event of Deterioration, Roche has the right to deliver the Products only on the basis of advance payment or the provision of appropriate collateral.

16. Retention of Title

- 16.1 Roche retains title to delivered Products until all payments resulting from the business relation with Buyer have been received. Title of Roche also extends to the new Products created through the processing of the Products subject to retained title. The Products are processed for Roche as the manufacturer. If they are processed, connected or mixed with items that do not belong to Roche, Roche will acquire co-ownership at the ratio of the invoice value of its reserved Products to the invoice values of the other materials.
- 16.2 The retention of title will remain in effect even if the relevant claim(s) of Roche is (are) included in a current invoice and the balance has been struck and recognized.
- 16.3 If Buyer is in breach of contract, including without limitation as regards default of payment, Roche is entitled to rescind the Contract and reclaim the Products. Any seizure of the Products subject to retained title by Roche implies rescission of Contract by Roche.
- 16.4 Buyer shall take care of the Products subject to retained title and shall insure them sufficiently at its own cost and at their

purchase value against fire, water damage and theft. Buyer hereby assigns any compensation claims from these insurance policies to Roche.

- 16.5 In the event of seizure or other intrusions by third parties, Buyer shall notify Roche in writing without delay to enable Roche to bring in third-party action (*Drittwiderspruchsklage*) against execution in accordance with Section 771 German Code of Civil Procedure. Buyer shall be liable for any loss incurred by Roche to the extent the third party will not refund Roche the judicial and extra-judicial costs of a legal action as provided under Section 771 German Code of Civil Procedure.
- 16.6 Buyer is entitled to resell the goods in the course of orderly business, but hereby assigns to Roche all claims to the amount of the invoice value (including VAT) resulting from the sale of the Products subject to retained title, including the bills of exchange and checks provided as security for each claim. If goods are sold to which Roche has the right of co-ownership, the assignment is limited to the percentage of its share in the joint product. Buyer shall remain entitled to recover these claims, even after the assignment. This does not affect Roche's entitlement to recover the claim itself. Roche may not recover such claim as long as Buyer meets its payment obligations towards Roche, does not default payment and, in particular, no application for the opening of insolvency proceedings has been lodged. If this is the case, Roche is entitled to demand that Buyer notify it of the assigned claims and their debtors, provide it with all of the information required for collection, hand over the related documentation and notify the third parties of the assignment.
- 16.7 If the Product is delivered as agreed to a destination outside the Federal Republic of Germany or transported by Buyer to such destination, the following provisions shall apply: Buyer undertakes to effectively protect Roche's retention of title in the country where the Product is or where it is delivered to. To the extent specific action is required (e.g. special labelling of the delivered object or any local registration), Buyer is obliged to carry out such action for the benefit of Roche. If any cooperation of Roche is required, Buyer shall inform Roche immediately. Moreover, Buyer shall inform Roche about any material circumstances of relevance to provide the widest range of protection of Roche's ownership. Without limiting the generality of the aforesaid, Buyer shall make all documents and information available to Roche which are required to enforce such ownership rights. If under the jurisdiction of the place where the Product is located retention of title cannot be effectively agreed upon, then Buyer shall put Roche into a legal position in which its interests and claims are protected in a manner equally effective as under the provisions of this Section 16.7.

17. Ethics and Labor

All corruption, extortion and embezzlement are prohibited. Buyer shall not pay or accept bribes or participate in other illegal inducements in business or governmental relationships. Buyer shall conduct his business consistent with fair and vigorous competition and in compliance with all applicable antitrust laws. Buyer shall employ fair business practices, including accurate and truthful advertising. Buyer shall neither use forced, bonded, indentured or voluntary prison labor nor child labor. In addition, Buyer must respect those human rights that are within his sphere of influence and must abide by the integrity standards set forth in the Roche Code of Conduct (http://www.roche.com/code_of_conduct_e.pdf).

18. Resale

- If and to the extent Buyer is allowed to resell the Products, the following shall apply:
- 18.1 Buyer is obliged to comply with the relevant laws, including but not limited to legislation on unfair competition and anti-trust when reselling the goods.
- 18.2 It is not permitted to utilize any of Roche's protected brand names (trademarks) for goods manufactured by third parties or processed Products without obtaining the prior express written consent of Roche.
- 18.3 Buyer is obliged to sell or provide the Products only in their completeness (i.e. including Documentation, etc.).

19. Confidentiality

- 19.1 Buyer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Buyer by Roche, its employees, agents or subcontractors, and any other confidential information concerning Roche's business, its products and services which Buyer may obtain. Buyer shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging Buyer's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this Section as though they were a party to the Contract.
- 19.2 The above obligations of confidentiality shall not apply to that part of such confidential information which Buyer is clearly able to demonstrate (a) was fully in its possession prior to receipt from the other; or (b) has been independently developed as shown by respective documents; or (c) was in the public domain at the time of receipt from Roche; or (d) became part of the public domain through no default of Buyer, its Affiliates, directors, officers or employees; or (e) was lawfully received from some third party having a right of further disclosure; or (f) is required to be disclosed by law or applicable government regulations.
- 19.3 Upon expiration or earlier termination of the Contract, Buyer shall promptly deliver to Roche all confidential information of Roche, together with all copies thereof, in the possession, custody or control of Buyer or, alternatively, with the written consent of Roche, destroy all such confidential information and certify such destruction in writing to the Disclosing Party; provided, however, that Buyer may retain a list for reference purposes that contains general descriptions of the information it has returned or destroyed to facilitate the resolution of any controversies after Roche's confidential information is returned.
- 19.4 This Section 19 shall survive termination of the Contract.

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20. Data Privacy

Should any information disclosed under a Contract relate to an identified or identifiable natural person ("**Personal Data**"), the parties shall comply with all applicable data protection laws including without limitation Regulation (EU) 2016/679 in relation to the processing of the Personal Data disclosed. No party will (i) process or otherwise use Personal Data other than as necessary to perform the Contract or (ii) disclose such Personal Data to any third party, unless otherwise permitted hereunder.

21. Miscellaneous

- 21.1 The place of performance for any Contract is Mannheim, Germany.
- 21.2 Subject to Section 21.2, the exclusive place of jurisdiction for all disputes between the parties arising from or in connection with a Contract is Mannheim, Germany.
- 21.3 Notwithstanding Section 21.2, if Buyer has its general place of business outside of the European Economic Area, Switzerland, or the United Kingdom, then any dispute, controversy or claim arising under, out of or relating to a Contract, its valid conclusion, binding effect, interpretation, performance, breach or termination, including tort claims, shall be referred to and finally determined by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce as in force at the time when initiating the arbitration. The arbitral tribunal shall consist of three arbitrators. The place of arbitration shall be Frankfurt, Germany. The language to be used in the arbitral proceeding shall be English.
- 21.4 Any Contract, and these Conditions, shall be governed, construed and interpreted in accordance with the laws of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods shall be excluded.
- 21.5 Should any of the individual provisions of a Contract be or become completely or partially invalid or void, this will not affect the validity of the remaining provisions. Such invalid or void provisions shall automatically be replaced by a legally effective regulation which comes closest to the economic purpose. The same applies to any gap.