

REACH-Code-Model

Terms & Conditions

Non-EU downstream user/formulator/trader

- hereinafter „**Customer**“ -

Chemservice S.A.
5, an de Laengten
L-6776 Grevenmacher, Luxembourg

- hereinafter „**REACH-Code-Trustee**“ -

WHEREAS, pursuant to the REACH Regulation (hereinafter: “**REACH**”) substances may only be manufactured or placed on the market in the European Union (European Economic Area) (hereinafter “**EU**”) if they have been first pre-/registered by the manufacturer or importer in accordance with the provisions of REACH.

WHEREAS, a manufacturer who is not established in the EU and who exports or intends to export into the EU may, pursuant to Article 8 of REACH, appoint a natural or legal person established in the EU to fulfil the obligations of an importer under REACH (hereinafter referred to as an “**Only Representative**”).

WHEREAS, REACH-Code-Trustee has been appointed as Only Representative by a non-EU manufacturer of certain substances in a supply chain of which Customer is a part;

and/or

WHEREAS, REACH-Code-Trustee has been appointed as Trustee by an Only Representative of a non-EU manufacturer of certain substances and/or products in a supply chain of which Customer is a part;

and/or

WHEREAS, REACH-Code-Trustee has been appointed as Trustee by an EU manufacturer (in case of re-import) of certain substances and/or products in a supply chain of which Customer is a part.

WHEREAS, REACH-Code-Trustee has concluded an Agreement with a non-EU manufacturer or the Only Representative of a non-EU manufacturer or an EU manufacturer (re-import) on the use of the REACH Code-Model.

1. Subject matter

- 1.1 Subject matter of this document is the use of the REACH-Code-Model as described in **Exhibit A**.
- 1.2 In order to obtain a Code or Import Certificate for a certain quantity of each substance and/or product to be exported to the EU, Customer shall submit to REACH-Code-Trustee the required documents set forth on **Exhibit B** hereto.
- 1.3 REACH-Code-Trustee will provide customers with new Code or Import Certificates if customers, presenting the Code issued to Customer, request their own Code or Import Certificates.
- 1.4 REACH-Code-Trustee will examine whether the quantity specified by Customer and the Code of Customer's supplier is covered under the REACH-Code-Model, and, if covered, REACH-Code-Trustee shall issue to Customer a new Code Certificate as set forth on **Exhibit C** for the quantity requested. The Code is valid from the date of issuance and (dependant on the Code received) at maximum until the end of the following calendar year. In case of an import to the EU, REACH-Code-Trustee shall issue to Customer an Import Certificate as set forth on **Exhibit D** for the quantity requested. The Import Certificate is valid for the calendar year requested.
- 1.5 Customer shall pay REACH-Code-Trustee in advance for issuing the Code Certificate and/or the Import Certificate applied for by him as set forth in **Exhibit E**.
- 1.6 REACH-Code-Trustee shall provide Code or Import Certificates to customers within three working days after receipt of payment.
- 1.7 All exchange of Code request forms, invoices, Code/Import Certificates, etc. shall be done via email by means of electronically filled and issued Word and/or PDF documents only.

2. Confidentiality

- 2.1 REACH-Code-Trustee shall keep information which is supplied by Customer to REACH-Code-Trustee in the context of this document, strictly confidential. REACH-Code-Trustee shall, in particular, not disclose to any third party information on
 - (i) the identity of the applicant for a Code or Import Certificate;
 - (ii) on the substances and/or products and quantities concerned; or
 - (iii) the customers in the supply chain.

REACH-Code-Trustee is permitted to provide only to the originally appointing manufacturer/Only Representative the total annual quantities of their substances and/or products imported into the EU, in order to enable this manufacturer/Only Representative to ensure compliance with REACH for the imported substances and/or products. For the same purpose, REACH-Code-Trustee is permitted to disclose the information to EU competent authorities, if requested to do so.

- 2.2 REACH-Code-Trustee undertakes to take all necessary and suitable measures and actions to effectively protect the obtained confidential information at any time against loss as well as against unauthorized access. This includes, in particular, the provision and maintenance of adequate and necessary entrance and access measures for rooms, containers, IT systems, data carriers and other information media, in or on which confidential information is provided, as well as the implementation of appropriate instructions for those persons, who are entitled to the handling of confidential information pursuant to this document.

3. Final Provisions

- 3.1 If a non-EU or EU manufacturer or the Only Representative of a non-EU manufacturer terminates his contract with REACH-Code-Trustee and/or appoints a new REACH-Code-Trustee and/or Only Representative, according to Article 8 REACH, REACH-Code-Trustee may no longer be capable of fulfilling his obligations, and especially to certify an import according to REACH. According to his agreement with the non-EU or EU manufacturer or the Only Representative of a non-EU manufacturer, REACH-Code-Trustee in such a case may be required to transfer all relevant data to a new REACH-Code-Trustee who will offer to enter into all obligations in context of the REACH-Code-Model vis-à-vis Customer, including but not limited to those concerning confidentiality pursuant Article 2 of this document. REACH-Code-Trustee will inform Customer of the change of the non-EU or EU manufacturer's or non-EU manufacturer's Only Representative REACH-Code-Trustee. At the same time, the new REACH-Code-Trustee will declare in writing vis-à-vis Customer that he is willing to enter into these Terms & Conditions instead of REACH-Code-Trustee. Customer declares within fourteen (14) days after receipt of this declaration whether he accepts the new REACH-Code-Trustee as new party. REACH-Code-Trustee will, if Customer agrees, transfer all relevant information to the new REACH-Code-Trustee. REACH-Code-Trustee will be no longer party as defined in this document. His obligations according to Article 2 shall survive termination of his contract.
- 3.2 The validity, interpretation and performance of these Terms & Conditions and any dispute connected herewith shall be governed by and construed in accordance with the laws of Germany. Any and all disputes between the Customer and REACH-Code-Trustee which may arise hereunder shall be settled amicably through negotiation. In case no settlement can be reached through negotiation, the dispute shall be settled by arbitration in accordance with the rules of International Chamber of Commerce in English language in the place of the respondent. The award shall be final and binding upon the parties hereto.
- 3.3 The legal relationships between Customer and REACH-Code-Trustee in view of the subject matter of this document shall be governed exclusively by this document. Any agreements to the contrary do not exist or are ineffective. The latest valid version of this document can always be downloaded from the Chemservice website through the following link: http://www.chemservice-group.com/reach_code_model.html

- 3.4 Communication on and/or coverage for Safety Data Sheets and/or intended uses and/or SVHC substances is not part of the REACH-Code-Model. It is the responsibility of the non-EU manufacturer or their Only Representative to provide up-to-date and REACH compliant SDS for the substances/products covered by the Code/Import Certificates issued to the direct customers of the non-EU manufacturer under this REACH-Code-Model. However, for further formulated products these SDS may not be appropriate. Therefore any indirect customer/importer is obliged to obtain the relevant REACH compliant SDS for the product to be imported into the EU from its direct supplier. Furthermore it is the responsibility of the customer/importer to confirm that its (or its customer's) intended use of the product to be imported into the EU is covered by the registration of the substance(s) contained in the product.

REACH-Code-Trustee



Dr. Dieter Drohmann,

Grevenmacher, January 28, 2015

Exhibit A**REACH-Code-Model**

A non-EU manufacturer of substances and/or products has nominated an internal or external Only Representative, according to Article 8 of REACH, and/or an EU manufacturer is exporting substances and/or products with the purpose of later re-import into the EU. The internal or external Only Representative or the EU manufacturer will cover direct and indirect EU importers, which relieves them from their pre-/registration obligations and enables the EU importers to qualify as Downstream Users.

The non-EU and/or EU manufacturer or the Only Representative of a non-EU manufacturer has appointed a Trustee (REACH-Code-Trustee) as an independent third party that can administer all confidential business data, such as the identity of indirect EU importers and their individual volumes. Non-EU and/or EU manufacturer and/or the Only Representative of a non-EU manufacturer and Trustee agreed to use the REACH-Code-Model in order to track their substances and/or products through a multi-step supply chain, without disclosing confidential business information.

According to this REACH-Code-Model, the manufacturer of a substance and/or product sells a customer-fixed quantity for the purpose of potential import to the EU. The customer has the right to resell a subset of this quantity under the purpose of potential import to the EU. For this, he has to use a Code, which he can receive from the REACH-Code-Trustee. The Code will be issued to the next customer down the supply chain for a certain amount of a product and a validity period. Due to this information, the REACH-Code-Trustee can report the total volume of substance and/or product imported into the EU, back to the manufacturer or their Only Representative. This enables them to verify that the product and/or substances contained are in their total annual quantity covered by pre-/registration under REACH. The REACH-Code-Trustee is contractually obligated to treat the identity of the respective supplier confidential. Due to the respective Code, the REACH-Code-Trustee, who has been instructed by the manufacturer or the manufacturer's OR, has the ability to verify the origin of each product and/or substances contained. The Code applied for shall be valid until the end of the calendar year specified by the last four digits of the initial Code.

After recording the respective quantity of the product for the non-EU and/or EU manufacturer and/or non-EU manufacturer's OR by the REACH-Code-Trustee, the EU importer will receive a certificate, which documents the calendar year, the product and quantity for which the Only Representative or EU manufacturer is fulfilling the obligations according to REACH Title II (Registration of Substances). For this reason it can be submitted to the competent authority.

The REACH-Code-Model enables the Only Representative and/or EU manufacturer to ascertain the total amount quantity of a certain substance being imported to the EU. Also the compliance concerning the tonnage band, which was stated in pre-/registration, can be assured.

Exhibit B - (Form 1)

CHEMSERVICE

APPLICATION FOR CODE / IMPORT CERTIFICATE

Please submit by email to: code@chemservice-group.com

Date of request:	Day	Month	Year
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Request type:	<input type="checkbox"/> Code Certificate
	<input type="checkbox"/> Import Certificate (only if Customer = EU Importer)

Certificate is valid from: Day Month Year Determines the start date of the validity period of the Code or Import Certificate. If this request is based on a Code Certificate then this date cannot be before the "valid from" date of the Code Certificate.	Certificate is valid to: Day Month Year Leave this information blank in order to obtain the maximum validity period for a Certificate. This information would be required only by non-EU manufacturers whose products may contain substances, which will not be registered by the REACH registration deadline 2018/05/31.
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Supplier: Company name: Address: Country:	Supplier contact regarding this request: Name: Phone: Email:
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Authorized Customer / EU Importer to which this request applies: Company name: Address: Country:
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Application for a Code/Import Certificate of REACH compliance for the following product & volume:	
Product name: This is the trade name of the product that is being supplied to the Customer / EU Importer.	Product volume: metric tons Amount of product that is being supplied to the Customer / EU Importer and for which this Code or Import Certificate is providing coverage. (Max. accuracy up to 4 digits after the decimal point.)

<i><u>This section is applicable only if your product contains material for which you received a Code Certificate</u></i>	
This application refers to the following supplier Code Certificate(s):	
Code No.:	
percentage of product covered by given code:	%
Code No.:	
percentage of product covered by given code:	%
Code No.:	
percentage of product covered by given code:	%
Code No.:	
percentage of product covered by given code:	%
Code No.:	
percentage of product covered by given code:	%

Exhibit C - (Form 2)

**CODE CERTIFICATE OF
REACH COMPLIANCE COVERAGE (NON-EU)****Code No.:**

As the appointed Only Representative of a non-EU manufacturer, according to Article 8 of the Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), and/or Trustee of a non-EU and/or EU manufacturer and/or Trustee of a non-EU manufacturer's Only Representative, we herewith confirm that

the following product

supplied by

to

with a delivery amount of metric tons

contains % (w/w) of substances which are either exempt from the obligation to register, according to REACH Article 2, or are covered (within the supply chain of this product) by (Pre-)Registration(s) at the European Chemicals Agency (ECHA).

This document and the provided Code are only valid for the named customer outside the European Union. The Only Representative and/or Trustee has to be contacted by the named customer to provide further REACH-Code-Model support either for the non-European supply chain or for the European importers.

We are prepared to provide enforcement authorities in the EU with the necessary details upon request.

This certificate is valid from to .



Dr. Dieter Drohmann
Managing Director

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Issue date

Exhibit D - (Form 3)



IMPORT CERTIFICATE OF REACH COMPLIANCE COVERAGE (EU)

Certificate No.:

As the appointed Only Representative of a non-EU manufacturer, according to Article 8 of the Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), and/or Trustee of a non-EU and/or EU manufacturer and/or Trustee of a non-EU manufacturer's Only Representative, we herewith confirm that

the following product

supplied by

to

with a delivery amount of metric tons

contains % (w/w) of substances which are either exempt from the obligation to register, according to REACH Article 2, or are covered (within the supply chain of this product) by (Pre-)Registration(s) at the European Chemicals Agency (ECHA).

We are prepared to provide enforcement authorities in the EU with the necessary details upon request.

This certificate is valid for the year .



CHEMSERVICE
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Dr. Dieter Drohmann
Managing Director

Issue date

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Exhibit E

Remuneration for Code and Import Certificates

Code Certificate	<p>Issue a Code Certificate for product supply to another non-EU manufacturer, formulator, distributor, etc.</p> <p>(max. validity: end of the calendar year following the year of Code generation)</p> <p>To be remunerated by Code Certificate Applicant (Supplier of the product to be covered)</p>	<p>100,- EUR</p> <p>per Certificate</p>
Import Certificate for EU Importer	<p>Issue an Import Certificate confirming covered volumes of product imported</p> <p>(validity: one calendar year / year of import)</p> <p>To be remunerated by Import Certificate Applicant (Supplier of the imported product to be covered)</p>	<p>100,- EUR</p> <p>per Certificate</p>

Remuneration to be transferred in advance. All invoices will be sent via email as PDF files only. Code or Import Certificate will be issued after money transfer. Any transfer or wiring costs are on the account of the applicant. The fees/costs include all taxes of the EU excl. VAT.