

GENERAL CONDITIONS OF PURCHASE OF ENERGY FOOD INGREDIENTS B.V. (EFI)

1 Applicability

- 1.1 These conditions of purchase are applicable to all orders placed by EFI, regardless whether the orders are placed individually or on the basis of call-off orders under a framework agreement.
- 1.2 The applicability of the supplier's general terms and conditions is herewith explicitly rejected.
- 1.3 In case of conflicting provisions between these conditions of purchase and a specific written agreement, the terms of that agreement shall prevail.

2 Quotation and purchase order

- 2.1 Supplier's quotation to EFI is binding and irrevocable. The confirmation by EFI of its acceptance of the quotation by means of sending a purchase order to supplier constitutes a binding agreement.
- 2.2 Any alterations or additions by supplier to a purchase order shall only be valid if they have been confirmed by EFI in writing.
- 2.3 EFI is entitled to unilaterally amend or cancel (parts of) the purchase order based on amendments or cancellation by its customer. In case of partial cancellation the price will be adjusted accordingly. In case of delayed delivery at the request of EFI's customer, supplier will store and preserve the goods at its own cost.

3 Delivery and conformity

- 3.1 The delivery date stated in the purchase order is binding. If supplier becomes aware that it will not be able to deliver all or part of the goods in due time, it shall immediately notify EFI confirming the date when it will be able to deliver the goods. EFI is entitled to cancel the purchase order if it cannot agree to the new proposed delivery date.
- 3.2 The goods will have to be delivered in accordance with the agreed INCO term 2010 at the date and location specified in the purchase order, along with all transport, customs, certifications and other agreed or requested accompanying documents, *e.g.* certificates of origin, halal, kosher and GMO-free certificates and declarations of conformity. The goods furthermore have to conform to all agreed specifications and applicable laws and regulations, and be suitable for its purpose, *i.e.* human consumption.
- 3.3 EFI is entitled to refuse to take delivery if the goods and delivery do not conform with the agreed requirements, *e.g.* in case of early, delayed or partial/insufficient delivery. Non-conforming goods will be stored by EFI (or a third party) or returned to supplier, both at the cost of supplier.
- 3.4 Taking delivery of the goods by EFI does not imply acceptance of the goods. EFI is not obliged to perform incoming goods inspection.
- 3.5 EFI will notify immediately visible defects to the supplier within no more than 14 days after delivery of the goods and will notify other, non-visible defects within no more than 14 days after they have been discovered.
- 3.6 Supplier will ensure that all goods delivered will be fully traceable.
- 3.7 If supplier does not meet the agreed delivery date it shall immediately, without any notice being required, forfeit a penalty of 1% of the contract price for each commenced week of delay with a maximum of 10%. Notwithstanding the penalty, EFI is entitled to claim damages in full.
- 3.8 In the event of repeated delays in delivery EFI is entitled to cancel all outstanding orders.

4 Packaging and transport

- 4.1 Supplier will pack the goods in such a manner that it complies with the agreed packaging requirements and that the integrity and quality of the goods is secured.
- 4.2 Supplier will comply with the shipping policies and specifications of EFI and of the forwarding agent or the carrier. The shipping papers shall state the applicable purchase order number, the ordered items, order date and any other agreed or required information.
- 4.3 Unless specifically agreed otherwise, supplier will take care of and bear all costs and expenses (including duties and fees) of packaging, insurance, transport and compliance with all applicable export and import regulations in relation to the delivery of the goods to EFI.

5 Risk and ownership

- 5.1 Risk and ownership of the goods are transferred to EFI at the moment of delivery of the goods at the location specified in the purchase order, unless agreed otherwise.
- 5.2 In the event EFI has notified supplier of defects in the goods supplied or other non-conformities that entitle EFI to cancel the purchase order, the risk will transfer back to supplier retro-actively.

6 Prices, invoices and payment

- 6.1 The agreed prices are fixed prices and include all costs and expenses arising from the fulfilment of the purchase order in accordance with these general conditions.
- 6.2 Invoices will only be made and sent upon delivery of the goods and are due and payable only if they quote the purchase order number, ordered goods, agreed prices and delivered quantities and other legally required information.
- 6.3 Unless otherwise agreed, payment of undisputed invoices will be made within the agreed payment period, or in case no specific payment period has been agreed within 30 days days from receipt of the invoice, unless EFI has notified supplier of any non-conformity in which case EFI is entitled to retain payment.
- 6.4 EFI may set off with supplier's claims all claims that it may have on supplier, also if they are not yet payable.

7 Product quality and liability

- 7.1 Supplier warrants that the goods comply with the agreed requirements and specifications, including the relevant laws and regulations, are marketable under applicable food law and are GMO free.
- 7.2 In the event supplier has provided EFI with samples of the goods to be delivered, those goods will have to meet the specifications of the specific sample.
- 7.3 Supplier will not change (basic) materials, production processes and recipes without the prior written consent of EFI. In case of any such change or in case of any change, renewal or updates in halal or kosher certificates or confirmations, supplier will provide EFI with all required new declarations, certificates or confirmations etc., including GMO-free certificates.
- 7.4 In the event of breach of either of the above mentioned obligations and warranties or in the event of other non-conformities or defects in the goods, supplier shall at its own cost and

expense, and at the sole option of EFI, either replace the non-conforming goods/deliveries with conforming goods/deliveries within a reasonable grace period as stated by EFI, or immediately take back the delivered goods.

- 7.5 Supplier will take and maintain for a period of at least 5 years after the final delivery of goods liability insurance that covers for at least EURO 5 million per case and per year the risk of liability for defective goods, including coverage for product recall, and will provide EFI with proof of insurance coverage upon first request.

8 Third party rights

- 8.1 Supplier warrants that the entering into the contract for the delivery of the goods and the delivery of the goods itself does not infringe on third party rights (*e.g.* rights of third parties on exclusive supplies of the relevant goods or industrial property rights, such as trademark rights, know-how (*e.g.* recipes). Supplier will indemnify EFI against and will hold EFI harmless from any costs and damages that arise as a result of a breach of the aforementioned warranty, including reasonable costs of defense made by EFI against claims brought against EFI or in which EFI will become involved.

9 Confidentiality

- 9.1 All materials and information enclosed with EFI's inquiries or orders are EFI's property and may only be used for EFI's purposes.
- 9.2 Supplier will not disclose its business relation with EFI and any confidential information to third parties, except to the extent required for the preparation of a quotation for or the fulfilment of its obligations under a purchase order from EFI.

10 Termination

- 10.1 EFI is entitled to terminate ("*opzeggen*") the purchase order with immediate effect in case of (notification of) late delivery of the goods or delivery of non-conforming goods by supplier, the dissolution or liquidation of supplier, the declaration of its bankruptcy or suspension of payment of supplier or other insolvency proceedings with respect to supplier, including the appointment of a trustee, receiver or administrator, the seizure of the assets of supplier or the goods to be delivered which seizure cannot be lifted within 14 days.

11 Final provisions

- 11.1 These general conditions of purchase and all quotations and subsequent purchase orders are governed by the laws of the Netherlands. The United Nations Convention on the International Sale of Goods (Vienna, 1980) is not applicable.
- 11.2 All disputes arising out of or in connection with these general conditions of purchase and all quotations and subsequent purchase orders will be exclusively referred to the competent court in Breda, the Netherlands. Notwithstanding the foregoing, EFI may elect to bring a claim against supplier before any other court that would otherwise have jurisdiction over the supplier or the claim asserted.

These terms and conditions of purchase are recorded at the Chamber of Commerce in Breda on [November 2018]