

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

1 Applicability

- 1.1 These conditions of sale are applicable to all quotations and sales orders of 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 customer's general terms and conditions is herewith explicitly rejected.
- 1.3 In case of conflicting provisions between these conditions of sale and a specific written agreement, the terms of that agreement shall prevail.

2 Quotation and purchase order

- 2.1 EFI's quotation is non-binding and revocable by EFI, and is subject to price changes and product availability. Unless explicitly mentioned otherwise in the quotations, all quotations are valid per metric ton (MT), excluding VAT, goods analysis, delivery, customs fees and duties, taxes, packaging and transport. A quotation is valid for the period referred to in the relevant quotation. Only the written confirmation by EFI of its acceptance of the order of the customer constitutes a binding order. Notwithstanding the foregoing, EFI is entitled to prove the existence of a binding agreement through other means.
- 2.2 Any request by customer for an alteration or addition to an order shall only be valid if it has been specifically confirmed by EFI in writing. In case of delayed delivery at the request of EFI's customer, storage and preservation of the goods will be at the customer's risk and account.
- 2.3 Orders can only be cancelled with mutual consent. In case of partial cancellation the price will be adjusted accordingly.
- 2.4 The introduction of new or the increase in existing import duties, levies, taxes and other costs outside the control of EFI will be passed on by EFI to the customer.

3 Delivery, product warranty and inspection

- 3.1 Unless specifically agreed otherwise, the delivery date stated in the order is non-binding.
- 3.2 EFI is entitled to deliver in parts and to make early (partial) deliveries and invoice those separately.
- 3.3 If EFI becomes aware that it will not be able to deliver all or part of the goods in due time, it shall notify the customer as soon as reasonably possible, and EFI shall determine a new, reasonable time for delivery in consultation with the customer, without any compensation whatsoever being due by EFI. In such case, the customer is not entitled to cancel the order unless the original delivery date is a binding date ("*fatale termijn*").
- 3.4 EFI shall not be in default until EFI has been given notice of default by the customer after the original delivery date has lapsed or after the lapse of the extended time for delivery referred to in article 3.3 and EFI has been granted a reasonable time for delivery of at least 1 calendar month to fulfill its obligations which has also lapsed without EFI having fulfilled its obligations.
- 3.5 The goods will be delivered in accordance with the agreed INCO term 2010, along with all transport, customs, certification and other accompanying documents, e.g. certificates of origin, halal, kosher and GMO-free certificates and declarations of conformity, if requested, available and applicable.
- 3.6 The customer is obliged to take delivery of the goods. If the customer refuses to take delivery of the ordered goods the goods will be stored and preserved at the risk and cost of customer.

- 3.7 The customer shall accept a maximum deviation of 5%, positive or negative, with respect to the agreed total quantity of each of the goods.
- 3.8 EFI is not obliged to make inquiries about, and is not responsible for, the intended use or fitness of the goods for the intended use by the customer.
- 3.9 EFI warrants to the customer that the goods conform to all agreed specifications and applicable laws and regulations and are suitable for human consumption. This warranty ends on the best-before date, provided the customer can prove that it has stored and preserved the goods in accordance with the instructions or specifications and in accordance with applicable laws and regulations or, if that is earlier, on the date that the customer either delivers the goods to third parties or has started to process the goods or blend the goods with other goods.
- 3.10 EFI is entitled to make such changes to the agreed specifications as are necessary to ensure that the relevant goods conform with any applicable statutory requirements.
- 3.11 EFI does not provide any warranty for defects caused by improper storage, custody, use or transport and in the event of defects to the goods, customer shall have to prove the proper storage, custody, use or transport of the goods.

4 Packaging and transport

- 4.1 EFI 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 sufficiently secured.
- 4.2 Unless specifically agreed otherwise, customer will 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 the customer.

5 Risk and ownership

- 5.1 Risk of the goods is transferred to the customer at the moment of their dispatch for delivery according to the applicable INCO term 2010.
- 5.2 EFI retains title to the goods until customer has fulfilled all of its payment obligations with respect to the goods delivered or to be delivered, services rendered in connection with the goods, as well as claims due to breach of contract by customer.
- 5.3 As long as the goods are the property of EFI, customer will clearly mark them as property of EFI and keep them separated from goods of the customer itself or third parties. Notwithstanding the retention of title, customer is obliged to insure the goods against customary risks. Customer will fully cooperate at the first request of EFI in protecting or retrieving the goods as long as they are still owned by EFI.
- 5.4 Customer is entitled to re-sell the goods to its own customers in the normal course of its business, provided however that such sale has to be made subject to the same retention of title as agreed in this article 5. Customer is not entitled to encumber the goods prior to fulfilling all of its payment obligations stated in article 5.2

6 Duty to inspect and complaints

- 6.1 Customer is obliged to perform incoming goods inspection immediately upon delivery of the goods at the agreed location. After detection of defects or non-conformities customer will keep the goods on hold and suspend further processing, keep them separate from other goods, take and keep representative samples and pictures of the non-conforming goods and seal the goods in their original packaging.

- 6.2 Customer will have to notify immediately visible defects to EFI within no more than 2 days after the date of delivery of the goods and will notify other, non-visible defects immediately upon their discovery, failing which customer will lose its right to claim that the goods do not conform with the agreed conditions and specifications of the order.
- 6.3 At notifying EFI of the defect, customer will provide EFI with a detailed description of the defects or non-conformities and the relevant samples and pictures taken to substantiate the complaint.
- 6.4 If a complaint is considered justified by EFI, EFI is only obliged, at its sole discretion, to either deliver the lacking part or quantity, replace the delivered goods to which the complaint relates or to credit customer for the amount paid for the relevant goods against return of those goods, if so requested by EFI. Customer will follow EFI's instructions with respect to the storage, return or destruction of the goods.
- 6.5 A determination of whether or not delivered goods conform to the specifications and other agreed conditions shall be done solely by EFI analyzing samples and records retained by it. In case EFI and customer cannot agree EFI will submit representative samples of the relevant batch to an independent laboratory reasonably acceptable to customer. The results of such third party analysis shall be binding upon the parties. The costs of the third party will be borne by the party that was unable to uphold its position.

Prices, invoices and payment

- 7.1 Unless specifically agreed otherwise, the agreed prices are based upon delivery FCA (INCO terms 2010) and exclude VAT, goods analysis, customs fees and duties, taxes, packaging and transport and all other costs and expenses incurred in connection with the delivery of the goods to the customer which will all be borne by the customer.
- 7.2 EFI may charge to the customer changes in cost price factors relating to the order in case they exceed 5% or more of the agreed price, such as prices of raw materials, energy costs, labour costs, insurances and exchange rates which occur after the conclusion of the agreement.
- 7.3 EFI will send the invoices for the goods after the date of their dispatch for delivery to the customer, unless specifically agreed otherwise.
- 7.4 Unless otherwise agreed, payment of undisputed invoices will have to be made, without set-off or discount and in the agreed currency, within 30 days from receipt of the invoice, unless the customer has notified EFI of any non-conformity of the goods in which case the customer is entitled to retain payment pro rata to the non-conforming goods only. The costs of making payments and the providing of payment security, if required, will be for the account of the customer.
- 7.5 In case of late payment, the customer will be in default without any notice being required. In case a payment is more than 30 days overdue, EFI has the right to charge the statutory interest increased with 5% on any overdue payment from the due date of the invoice. All costs incurred by EFI with respect to the collection of overdue payments, whether in or out of court, including reasonable fees of third party debt collectors or attorneys, will be for the account of customer. The fees will be calculated at 10% of the overdue amount with a minimum of EURO 750,--.

- 7.6 Payments made by customer shall be deemed to have been made first to settle the costs referred to in article 6.5, subsequently to settle interest due and finally be charged to that part of the principal overdue amount as indicated by EFI.
- 7.7 In case EFI has good reason to believe that customer will not (be able to) duly fulfill its obligations towards EFI, EFI is entitled to suspend delivery of the goods and to request sufficient (additional) security for the proper fulfilment of the payment obligation of customer, irrespective whether EFI has sent an invoice for a specific order.

Limitation of liability and product recall

- 8.1 EFI's liability for any and all claims arising out of or in connection with the goods and the use thereof shall per occurrence be limited to direct damages of customer only. The liability of EFI is furthermore limited to the total order value of the defective batch of the relevant goods supplied to customer or the amount covered and paid out by the insurance company of EFI, whichever is the lowest.
- 8.2 EFI shall not be liable to customer or any other person for any kind of indirect, consequential or punitive damages, including lost profits, costs incurred, production failure and losses, missed orders, irrespective the cause or legal ground of the damage.
- 8.3 The limitation of liability of articles 8.1 and 8.2 also applies in case of gross negligence or willful misconduct of employees or third parties engaged by EFI, but does not apply in case of gross negligence or willful misconduct of management of EFI.
- 8.4 Customer will hold EFI harmless from and indemnify EFI against claims from third parties for damages for which EFI has excluded or limited its liabilities to customer hereunder.
- 8.5 Customer will at the first request of EFI fully cooperate with product recall measures (to be) taken by EFI in relation to goods delivered by EFI to customer. Each of EFI and customer shall bear a proportionate share of the costs of the product recall based on the degree of fault of each of them. Notwithstanding the foregoing, each of EFI and customer shall bear the costs of the use of its own personnel and assets for such product recall.

9 Force majeure

- 9.1 Neither party shall be liable in any way for any damage, loss, cost or expense arising out of or in connection with any delay, restriction, interference or failure in performing its obligations towards the other party caused by force majeure, *i.e.* any circumstance beyond its reasonable control. Force majeure includes, without limitation, acts of god, laws and regulations, administrative measures, court orders and decrees, earthquake, flood, fire, crop failure affecting the quality and quantity of the goods, crop diseases, shortage of raw materials for whatever reason, labour disturbances, strikes, delay in delivery or defects in goods supplied by suppliers or subcontractors of EFI, lack or failure of transportation, shortage of utilities, export and import restrictions.
- 9.2 Upon the occurrence of an event of force majeure, the party being affected by such event shall promptly inform the other party by written notice specifying the cause of the event and how it will affect its performance of its obligations under the relevant order. In the event of any delay, the obligation to deliver shall be suspended for a period equal to the loss of time caused by the force majeure. However, should the delay continue or can reasonably be

expected to continue for more than 60 days, either party is entitled to cancel the affected order or part thereof without any liability towards the other party to pay damages.

10 Termination

- 10.1 If customer is in default of performance of its obligations towards EFI or fails to provide EFI with adequate assurance of its proper performance; or if customer becomes insolvent or otherwise unable to pay its debts as they mature; or goes into liquidation or any bankruptcy procedure shall be instituted by or against customer or if a trustee, receiver or administrator is appointed for all or a substantial part of its assets, then EFI may by notice in writing forthwith, without prejudice to any of its other rights i) demand return and take repossession of the delivered but unpaid goods, all at the cost and expense of customer, and ii) suspend its performance or terminate ("*opzeggen*") any and all outstanding orders, unless customer pays for such deliveries cash in advance.
- 10.2 In any such event of article 10.1 all outstanding claims of EFI on customer shall immediately become due and payable.

11 Final provisions

- 11.1 These general conditions of sale and all quotations and subsequent 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 sale and all quotations and subsequent orders will be exclusively referred to the competent court in Breda, the Netherlands. Notwithstanding the foregoing, EFI may elect to bring a claim against customer before any other court that would otherwise have jurisdiction over the customer or the claim asserted.

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