

# Vereinigte Fettwarenindustrie GmbH (VFI)

## GENERAL TERMS AND CONDITIONS OF SALE

### 1. GENERAL

1.1 These General Terms and Conditions of Sale shall apply to all deliveries and sales contracts from VFI and will thus exclude application of any general or specific conditions or terms of the buyer.

1.2 All products delivered from VFI under these General Terms and Conditions of Sale are hereafter referred to as the Product. Sales contracts issued by VFI are hereafter referred to as the contract.

1.3 Deviations from the application of these General Terms and Conditions of Sale are accepted by VFI only if approved in writing by an authorized representative of VFI.

### 2. DETAILS CONCERNING THE PRODUCTS

Any details concerning weights, prices, technical qualities and other specifics of the Product shall be binding upon VFI only if and to the extent this is expressly agreed upon in writing between VFI and the buyer.

### 3. OFFER AND ACCEPTANCE

All offers are valid only during the day as such offers are made unless otherwise stated by VFI. No order shall be binding upon VFI unless accepted in writing by VFI.

### 4. DELIVERY AND TIME OF DELIVERY

4.1 Unless otherwise agreed in writing between the parties, the Product shall be delivered "EX WORKS" relevant national VFI-site (in accordance with the latest prevailing version of "INCOTERMS").

4.2 Unless otherwise agreed in writing between the parties, it is presumed that the agreed quantity of the Product should be delivered evenly apportioned during the contract period. In the event of successive deliveries, each delivery shall be considered as a separate sale. In case of delivery on call, any call-off shall be made in reasonable time before the desired delivery date with regard to quantity, place of delivery and other circumstances. A call-off is not binding upon VFI unless accepted in writing by VFI.

4.3 If the buyer has not taken delivery of the entire agreed quantity of a Product at the end of the contract period, VFI shall be entitled, at its' sole option, to require the buyer to immediately take delivery of and duly pay for any remaining quantity of Product under the contract or to cancel the contract as regards such remaining quantity. Should VFI choose to cancel the contract, the buyer shall compensate VFI for any loss, costs and expenses incurred by VFI due to such cancellation.

4.4 VFI shall immediately notify the buyer in case there is reason to believe that the delivery of the Product may be delayed. The buyer shall be entitled to cancel the delivery in question in case the delay causes the buyer considerable inconvenience conditional upon that the delay is not a consequence of force majeure in accordance with section 13 below.

4.5 In case a delay in delivery is caused by VFI, the buyer shall be entitled to damages only if agreed separately in writing. VFI shall in no event be liable for any pure economic loss or damages or any indirect or consequential loss, costs or damages resulting from a delay in delivery.

4.6 VFI shall at any time be entitled to non-performance of a delivery in case VFI has a legitimate reason to question the buyer's ability to pay for deliveries. However, VFI shall not be entitled to non-performance of a delivery if, on request, the buyer settles all dues to VFI and pays for the delivery in advance or grants security for the delivery which can reasonably be accepted by VFI.

### 5. TAXES AND CHARGES

All applicable taxes, charges, custom or import duties relating to the delivery of the Product in the country of destination shall be paid by the buyer.

### 6. WEIGHT

The quantity of the Product supplied, may, in keeping with the contract price, deviate more or less than the agreed contract weight by up to five per cent (5 %). In case of any positive or negative deviation from the contract weight by more than five per cent, the parties shall reach an agreement on how such deviation shall affect the price of the Product. The weight of the Product shall be finally settled by VFI by the use of scales which have been calibrated specifically for such purpose.

### 7. PRICE

VFI is entitled to adjust the contract price if, before the delivery date, there are any material and unforeseen changes of duties, taxes or other governmental charges increasing the costs for the provision of the Product.

### 8. PAYMENT

8.1 Unless otherwise agreed in writing, payment shall be made within ten (10) days from the date of invoice. Invoice relating to delivery may be issued as per the date of loading of the Product for transport to the buyer.

8.2 In the event of any delay in payment, VFI shall be entitled to interest on the unpaid amount from the due date of payment until the entire invoiced amount has been paid in full. The rate of interest shall per annum be the EURIBOR 3 month of the first day of delayed payment plus ten (10) percentage units p.a..

### 9. RETENTION OF TITLE

The Product remains the property of VFI until the agreed price for the Product has been paid in full by the buyer.

### 10. DEFECTS AND SHORTAGE

10.1 Should the Product, as delivered, not conform with the specifications agreed in writing or mandatory applicable laws or regulations in the country where the Product is manufactured, or should the quantity of delivered Product deviate from the agreed quantity, VFI shall, at its own discretion and at its own cost, either deliver new Product or refund such proportion of the purchase price received corresponding to the relevant defect or shortage. VFI shall in no event be liable for the suitability of the Product for its intended use or its fitness for a particular purpose. VFI shall further in no event be liable for defects or shortage of Product when caused by the buyer's inappropriate or improper use or storage.

10.2 The buyer shall carefully examine the Product immediately upon delivery and without delay report to VFI in writing any defects or shortage as set forth in section 10.1 above. Any claim from the buyer must, in order to be valid, be made to VFI prior to the Product or any part thereof is used or put into production. Any claim towards VFI on account of any defect or shortage shall, in any case, be deemed waived by the buyer unless submitted to VFI in writing not later than ninety (90) days from the delivery date. VFI shall be given reasonable opportunity to investigate all claims from the buyer.

10.3 Any notice of any claim shall be specified and state the alleged defect or shortage as well as the delivery date of the Product along with the production date and the lot number printed on the product or on the delivery documents. VFI shall be entitled to examine any delivery with an alleged defect or shortage. VFI shall, in the event VFI accepts to deliver a new Product, at its own cost, collect the defective Product.

### 11. PRODUCT LIABILITY

11.1 VFI shall not be liable in relation to any bodily injury or damage to property caused by the Product (product liability damage) if such occurs after the Product has been delivered, unless the relevant injury or damage has been caused solely by defects in the Product as qualified in section 10.1 above and provided that such defects have been caused by negligence on the part of VFI.

11.2 If VFI incurs liability towards any third party due to the Product delivered to the buyer and given that VFI is not liable in relation hereto under these General Terms, then the buyer shall indemnify, defend and hold VFI harmless in relation to any such liability.

11.3 VFI's liability as set forth in section 11.1 above shall be limited to € one million (1,000,000) per each occurrence of damages, unless otherwise is stipulated under mandatory laws or regulations. Any claim towards VFI on account of bodily injury or damage to property as described in section 11.1 shall be deemed waived by the buyer, unless submitted to VFI in writing not later than sixty (60) days from the date the Product or any part thereof was used or put into production

### 12. LIMITATION OF LIABILITY

VFI shall have no liability in relation to the Product except as specified in these General Terms. For the avoidance of doubt, VFI shall, notwithstanding anything to the contrary herein, under no circumstance whatsoever be liable for any loss of production, loss of profit or any other pure economic loss or damages or any indirect or consequential loss, costs or damages, irrespective of if such has been caused by a defective, or shortage of, Product or not. This limitation of VFI's liability shall, however, not apply in case VFI is proven guilty of gross negligence.

### 13. FORCE MAJEURE

VFI shall not be liable for any non-performance of its obligations caused by circumstances beyond VFI's control, which prevent or considerably obstruct production, delivery or freight of the Product until such obstacle has been removed (force majeure). Such circumstances shall be deemed to include difficulties to procure raw materials for the Product as well as other difficulties and disturbances such as, including but not limited to, labour conflicts, fire or other accident, fuel or power shortages, transportation shortages, obstacles or interruptions regarding transportation at sea and breakdowns or interruptions of any kind as regards VFI's equipment or facilities, which are deemed necessary for the performance of VFI's obligations.

### 14. DISPUTES AND GOVERNING LAW

14.1 All disputes arising out of this contract or related to its violation, termination or nullity shall be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by one or more arbitrators appointed in accordance with these Rules. The arbitration proceedings shall take place in Vienna, Austria. The substantive law of Austria shall be applicable. The amount of the dispute shall be considered the amount the plaintiff claims at the beginning of the procedure, excluding claim of interest. VFI shall also be entitled to apply directly to any competent court of law, in cases of default in payment.

14.2 These conditions and any claim, dispute or matter arising under or in connection with the agreement between VFI and the buyer shall be governed by and construed in all respects by the laws of Austria. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded.

VFI and the buyer both agree to submit to the exclusive jurisdiction of the relevant courts of the city of Wels, Austria.

*These General Terms and Conditions of Sale are valid as from June 1<sup>st</sup>, 2013.*