

## **General Terms and Conditions of Fit Ingredients GmbH.**

### **§ 1 Scope, form**

(1) These general terms and conditions shall apply to all business relationships between Fit Ingredients GmbH, Krautgärten 4, D-63808 Haibach (hereinafter referred to as: Seller) and its customers (hereinafter referred to as: Customer) in the respective version current at the time of contract conclusion. Seller shall only accept terms and conditions of the Customer that conflict with or deviate from these provisions if Seller explicitly agrees to their validity in writing.

(2) These general terms and conditions shall only apply if the Customer is an entrepreneur (§ 14 BGB – German Civil Code), a legal entity under public law or a special fund under public law.

(3) Legally relevant declarations and notifications by the Customer with regard to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) shall be made in writing immediately / within 14 days, i.e. in writing or text form (e.g. letter, email, fax). Legal formal requirements and further proof, in particular in case of doubts about the legitimacy of the declarant, remain unaffected.

### **§ 2 Conclusion of contract**

(1) Offers made by Seller are generally non-binding unless otherwise marked. A purchase order placed by the Customer in writing or by phone shall be considered by Seller as an offer pursuant to § 145 BGB (German Civil Code) which Seller may accept within two weeks. A contract shall only come into effect if the Customer's offer is acknowledged by Seller at least in written form.

(2) The only authoritative document for the legal relationship between Seller and Customer shall be the purchase contract concluded in writing (order acknowledgement by Seller) including these general terms and conditions. This fully reflects all agreements made between the contracting parties concerning the subject matter of contract. Any verbal promises made by Seller prior to conclusion of this contract are not legally binding and verbal agreements between the contracting parties are replaced by the written contract unless they explicitly state that they continue to be effective and binding.

(3) Details provided by Seller relating to the purchased item (e.g. weights, specifications, finished products, bulk materials and representations of the same (e.g. drawings and illustrations) shall only be deemed approximate insofar as the usability for the contractually intended purpose does not require an exact agreement. They are no guaranteed quality features but descriptions or identifications of the purchased item. Customary divergences and deviations made due to legal regulations or representing technical improvements and the replacement of raw materials, bulk goods, finished products by equivalent parts shall be admissible insofar as they do not affect usability for the contractually intended purpose.

### **§ 3 Delivery, prices**

(1) Seller shall be entitled to partial deliveries and partial services at any time as long as these are acceptable by Customer. Insofar as Seller carries out partial deliveries, the additional transport costs shall be borne by Seller.

(2) Details on expected delivery times shall be non-binding unless Seller has made a binding promise to the Customer in writing in particular cases.

(3) Seller may - notwithstanding its rights resulting from delay of the Customer - request the Customer to extend the delivery and service terms or to postpone the delivery and service terms by the period of time during which Customer does not properly meet his contractual duties (i.e. receipt of payment) towards Seller.

(4) If Seller is unable to deliver the ordered goods, without any fault on its part, because the Seller's supplier does not fulfil his contractual duties, Seller shall be entitled to withdraw from the contract with the Customer. However, this right to withdraw from the contract shall only apply if Seller has concluded a congruent hedging transaction (binding, timely and sufficient order of goods) and is not responsible for non-delivery of the goods in any other way. In such a case, Seller shall inform Customer immediately that the ordered goods are not available. Compensatory measures already provided by the Customer shall be reimbursed immediately.

(5) If Seller is prevented from fulfilling its delivery duties due to the occurrence of unforeseen, unavoidable and non-culpable incidents such as e.g. war, natural disasters, strike, official measures and force majeure affecting Seller or its suppliers and Seller was not able to avert the same even with reasonable care in the circumstances, the delivery time shall be extended as appropriate. In such a case, Seller shall also inform the Customer immediately. The legal claims of the Customer shall remain unaffected by this.

(6) The prices indicated by Seller shall be net, plus legal VAT.

### **§ 4 Passing of risk with sale involving the carriage of goods**

(1) The currently applicable versions of the Incoterms shall apply. Place of fulfilment for the Seller's delivery duty shall be the respective warehouse of the Customer or, in the case of purchase ex works, a warehouse determined by us.

(2) If the goods are shipped to the Customer on his request, the risk of accidental decline or accidental deterioration of the goods shall be passed onto the Customer with delivery of the goods to the forwarding agent or freight carrier. This shall apply irrespective of whether shipment of the goods is effected from the place of fulfilment or who bears the freight costs or whether Seller has also taken over other services.

(3) If the dispatch or delivery is delayed due to a circumstance caused by the Customer, the risk shall be passed onto the Customer on the day on which the goods are ready for dispatch and Seller notified the Customer in this respect. In this case, Seller shall have the optional right to store the goods for the Customer's account. This shall also apply in the event of later delivery requested by the Customer.

### **§ 5 Retention of title**

(1) Seller shall retain title of the goods until all the payments resulting from the purchase contract have been received (reserved goods). The Customer shall immediately notify Seller in writing of all interventions by third parties, especially of enforcement measures as well as other restrictions of his property. The Customer shall compensate Seller for all damages and costs arising from violation of such obligation and from intervention measures required against access of third parties. If the Customer behaves contrary to the contract, in particular if the Customer fails to comply with his payment obligation in spite of Seller's reminder, Seller shall be entitled to withdraw from contract after setting an appropriate deadline and demand return of goods that are still in his possession. Taking back the goods or attachment by Seller means withdrawal from contract. The shipping costs arising therefrom shall be borne by the Customer. Seller shall be authorized to utilise the goods upon receipt. The utilisation proceeds shall be set off against the Customer's liabilities less reasonable utilisation costs.

(2) The Customer shall be entitled to resell reserved goods in the ordinary course of business. Any receivables of the Customer arising from resale of the reserved goods shall already now be assigned to Seller amounting to the invoice amount (including VAT) agreed with him. This assignment shall already be accepted by Seller at this stage. This assignment shall apply regardless of the fact that the item has been resold without or after processing. Customer shall remain entitled to collect the receivables even after the

assignment. The Seller's authorization to collect the receivables itself shall remain unaffected by this. He is however obliged not to collect the receivables as long as Customer fulfils his payment obligations arising out of the proceeds collected, is not in default of payment and, in particular, no application for insolvency proceedings has been made or payments have been suspended.

(3) Seller undertakes to release the securities at its disposal on Customer's request insofar as their value exceeds the receivables to be secured by more than 20%.

(4) In the case of contract processing, handling and processing of the purchased item by the Customer shall always take place in the name and on behalf of the Customer. In this case, the Customer's expectant right to the purchased item shall continue in respect of the processed item. Insofar as the purchased item is processed with other items that do not belong to the Seller, he shall acquire co-ownership of the new item at the ratio of the objective value of the purchased item to the other processed items at the time of processing. The same applies to the case of mixing. Insofar as mixing takes place in a way that the Customer's item is to be considered as main item, it shall be deemed to be agreed that the Customer transfers co-ownership to Seller on a pro rata basis and preserves the resulting sole ownership or co-ownership for Seller.

## § 6 Payment

(1) Payment of the purchase price shall be made exclusively to the account specified in the invoice. Deduction of any discount is only permissible if especially agreed in writing. Otherwise, the total invoice amount shall be payable in full without any deduction, unless otherwise agreed.

(2) The purchase price shall be due upon conclusion of the contract in accordance with the terms of payment in the order acknowledgement.

(3) Seller shall be entitled to carry out or provide outstanding deliveries only against advance payment or a security deposit if, upon conclusion of contract, it becomes aware of any circumstances which may considerably reduce the Customer's creditworthiness and due to which payment of outstanding receivables of Seller arising from the respective contractual relationship (including other single orders to which the same basic agreement applies) is threatened by the Customer.

## § 7 Liability for defects

(1) Warranty rights of the Customer are based on the fact that the same has complied with his obligation of examination and notification of defects immediately in writing in accordance with § 377 HGB (Commercial Code). In this respect, the Customer shall, in particular, examine the delivered goods immediately whether these are in perfect condition and appropriate for their intended use. Customer shall be required to assess the type and scope of measures to be carried out for this (analysis, sample processing ...). The defects identified during examination of the goods shall be reported immediately after results of proper examination have been received. Hidden defects shall be notified immediately as soon as the Customer is able to identify them with adequate care. The goods shall be considered as approved if Seller has not received the complaint on the 3<sup>rd</sup> workday upon receipt of goods at the latest or in the case of defects that were not identifiable during careful examination on the 3<sup>rd</sup> workday upon discovery of the defect at the latest.

(2) Seller shall be responsible for defects existing during passing over of risk during a warranty period of 12 months. In this respect, Seller shall have the right to choose the type of re-fulfilment (remedy of the defect or new delivery of the purchased item). The expenditure required for the purpose of inspection and re-fulfilment, in particular transport, way, labour and material costs shall be borne by Seller if a real defect has occurred. If however a request for remedial action of the Customer appears to be unjustified, Seller shall be entitled to claim from the customer to compensate the costs arising therefrom.

(3) Seller shall not be liable for defects that are due to natural or normal wear, improper use or storage, maintenance errors, inadequate operating materials, excessive load and negligent behaviour of the Customer as well as fire, lightning or explosion.

(4) Liability for defects shall be excluded in case of only insignificant deviation from the agreed quality or in case of only slight impairment of usability.

(5) Damages to the purchased item resulting from improper use or inappropriate storage shall not constitute a defect. In this respect, it is absolutely necessary to refer to the product description and/or certificate of analysis of the respective product. Should Seller have declared a guarantee for this product on its own behalf, this shall be deleted in the aforementioned case.

(6) Even in the event of a warranty claim, the Customer is obliged to ensure that the containers are properly, professionally and carefully closed after opening and stored in accordance with the specifications and/or the certificates of analysis. Otherwise, an examination of the warranty claims may be impeded and/or the goods may be damaged by this.

## § 8 Liability

(1) Seller assumes liability for damages caused by intent or gross negligence, in case of malicious concealment of defects, assumption of a quality guarantee as well as for physical injury in compliance with the legal provisions.

(2) Seller shall only be liable for other damages caused by simple negligence if a duty is violated whose observance is of particular importance for the attainment of the contract purpose (cardinal duty) and if the damages are typical and predictable due to the contractual use of the goods. Insofar as liability is excluded or restricted by Seller, this shall also apply to personal liability of the Seller's employees, representatives and agents.

(3) Liability according to the product liability law shall remain unaffected.

(4) Insofar as Seller provides technical information or advice and such information or advice does not belong to the owed, contractually stipulated scope of service, this is provided free of charge and to the exception of all liabilities.

## § 9 Final provisions

(1) The legal relationships of the parties shall be subject to German laws, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

(2) If the Customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction - including international jurisdiction - for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Haibach. The same applies if the customer is an entrepreneur within the meaning of § 14 BGB (German Civil Code). However, Seller shall also be entitled in all cases to bring an action at the place of performance of the delivery obligation in accordance with these GTC or a prior individual agreement or at the general place of jurisdiction of the Customer. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.

(3) Should individual provisions of these general terms and conditions be/become ineffective or contain a loophole, all other provisions shall remain unaffected. The parties agree to replace the ineffective regulation by such a legally valid regulation that comes as close as possible to the economic purpose of the ineffective regulation and/or closes this loophole.

Haibach, 2<sup>nd</sup> February 2022