

GENERAL CONDITIONS OF SALE, DELIVERY AND PAYMENT

Article 1. APPLICABILITY

1. These general terms and conditions apply to all agreements, whether or not in writing, with respect to the sale, delivery and payment of goods and services.
2. Provisions and agreements deviating from these general terms and conditions, including any of the buyer's general terms and conditions shall only be lawful if confirmed in writing by the Management or Staff authorized for this purpose.
3. These general terms and conditions have been effected in 2003 and come into force as of 1 August 2003.

Article 2. DEFINITIONS

1. Lithos Food B.V. , tradename Lithos Ingredients, in these terms and conditions is referred to as "Lithos Ingredients" or "seller"
2. "Buyer" or "customer" means any natural person or legal entity concluding an agreement directly with Lithos Ingredients for its goods and/or services.
3. "Parties" are Lithos Ingredients and her buyer / customer.

Article 3. OFFERS

1. Unless otherwise stated in an offer, offers are valid for 60 days from the date of the offer. If not explicitly stated otherwise, offers are entirely free of commitment.
2. The prices stipulated are per unity of the products involved, which can vary per product. This unity is mentioned in the offer.
3. All prices mentioned by Lithos Ingredients are exclusive of VAT and/or any other taxes/duties in the broadest sense, unless agreed otherwise in writing.

Article 4. PRICE

1. The prices offered are based on prices, tariffs, conditions and taxes etc. that are valid at the time the offer is made.
2. Unless otherwise stated, prices are stated EXW location Holland, excl. VAT, importduties, taxes, duties and excluding of packaging cost, unloading, transport and insurance.
3. Increases of the Seller's cost price by new/changed governmental rules (or issued by other authorities) or measures or increases of cost price caused by currency fluctuations will be invoiced to the buyer if these increases could not have reasonably be known to the seller at the time of concluding the agreement.

Article 5. DELIVERY TIME

1. The seller is responsible for respecting the agreed delivery time as much as possible. However, the agreed delivery time can never be considered as a deadline.
2. When exceeding the agreed delivery time, the buyer should, in writing, declare the seller in default and grant him a reasonable time to meet his obligations.

Article 6. DELIVERY

1. Unless otherwise agreed, the term "delivery" refers to the delivery of the goods and not to the transfer of property.
2. Delivery of the goods takes place ex seller's storage Netherlands, unless explicitly stated otherwise. Transportation of the goods, if taken care of by the seller, will be done at risk and cost of the buyer. Possible cost for releasing the goods at the border by the customs authorities are to be taken care of by the buyer, unless explicitly agreed otherwise.
3. The buyer should accept the goods immediately after delivery. If the buyer fails to do so, at least the risk will be transferred to him.
4. The seller is entitled to postpone the delivery of the goods as long as the buyer will not have met his obligations from the underlying agreement or previous agreements.
5. If the delivery is done in split-deliveries, every delivery will be considered as a separate transaction.
6. Interpretation of stipulations and terms such as place of delivery, transportation risk, insurance obligation, etc. will be based on the International Rules for Interpretation of Trade terminology of the international Chamber of Commerce: Incoterms, latest version.

Article 7. COMPLAINTS

1. Missing goods or visually noticeable damages of goods/packagings need to be mentioned on the delivery note upon receipt of the goods. Moreover, the buyer needs to promptly notify the seller in writing within 5 working days after receipt of the goods.
2. The buyer is held responsible for checking the goods upon receipt and to, if he feels he has a reason to, immediately put in a claim. If the buyer does not put in a claim promptly (as described in article 7, section 1), he loses his right on replacement or credit.
3. In case of a complaint, the buyer is obligated to keep the goods/party in question available to the seller. Moreover, the buyer is also obligated to cooperate in case of an investigation by the seller.
4. If a complaint by the buyer is considered to be just, the seller may either have the goods returned and replaced or credit the buyer for the invoice amount involved. Any other demand is out of the question.
5. If, after delivery to the buyer, the goods are changed in their nature or composition or damaged or re-packed, the buyer loses every right, especially the right on replacement or credit.
6. In no case whatsoever shall complaints entitle the buyer to dissolve the agreement concluded with Lithos Ingredients. Nor shall complaints entitle the buyer to suspend payments, while any of the buyer's right to a discount and/or offset of payments is also explicitly excluded.

Article 8. RESERVING THE RIGHT OF PROPERTY

For deliveries made to Belgium:

- de eigendom van de geleverde goederen zal pas overgaan bij integrale betaling van de prijs.
- La propriété des biens délivrés ne sera transférée qu'au moment du paiement intégral du prix

For deliveries made to France:

La propriété des biens délivrés ne sera transférée qu'au moment du paiement intégral du prix.

For deliveries made to Germany:

Das Eigentum an den gelieferten Waren bleibt zur Sicherung aller Ansprüche vorbehalten, die uns aus der gegenwärtigen und künftigen Geschäftsverbindung bis zum Ausgleich aller Salden gegen den Käufer zustehen. Unser Eigentum erstreckt sich auch auf die durch Verarbeitung der Vorbehaltsware entstehende neue Sache. Der Käufer stellt die neue Sache unter Ausschluss des eigenen Eigentumserwerbs für uns her und verwahrt sie für uns. Hieraus erwachsen ihm keine Ansprüche gegen uns. Bei einer Verarbeitung unserer Vorbehaltsware mit Waren anderer Lieferanten, deren Eigentumsrechte sich ebenfalls an der neuen Sache fortsetzen, erwerben wir zusammen mit diesen anderen Lieferanten – unter Ausschluss eines Miteigentumserwerbs des Käufers- Miteigentum an der neuen Sache zu deren vollem Wert (einschliesslich Wertschöpfung) wie folgt:

a) Unser Miteigentumsanteil entspricht dem Verhältnis des Rechnungswertes unserer Vorbehaltsware zu dem Gesamtrechnungswert aller mitverarbeiteten Vorbehaltswaren.

b) Verbleibt ein von Eigentumsvorbehalten zunächst nicht erfasster Restanteil, weil andere Lieferanten den Eigentumsvorbehalt nicht auf die Wertschöpfung durch den Käufer erstreckt haben, so erhöht sich unser Miteigentumsanteil um diesen Restanteil. Haben jedoch andere Lieferanten ihren Eigentumsvorbehalt ebenfalls auf diesen Restanteil ausgedehnt, so steht uns an ihm nur ein Anteil zu, der sich aus dem Verhältnis des Rechnungswertes unserer Vorbehaltsware zu den Rechnungswerten der mitverarbeiteten Waren dieser anderen Lieferanten bestimmt.

Der Käufer tritt bereits jetzt seine Forderungen aus der Veräusserung von Vorbehaltsware als unseren gegenwärtigen und künftigen Warenlieferungen mit sämtlichen Nebenrechten im Umfang unseres Eigentumsanteils zur Sicherung an uns ab. Bei Verarbeitung im Rahmen eines Werkvertrages wird die Werklohnforderung in Höhe des anteiligen Betrages unserer Rechnung für die mitverarbeitete Vorbehaltsware schon jetzt an uns abgetreten.

Solange der Käufer seinen Verpflichtungen aus der Geschäftsverbindung mit uns ordnungsgemäss nachkommt, darf er über die in unserem Eigentum stehende Ware im ordentlichen Geschäftsgang verfügen und die an uns abgetretenen Forderungen selbst einziehen. Bei Zahlungsverzug oder begründeten Zweifeln an der Zahlungsfähigkeit oder Kreditwürdigkeit des Käufers sind wir berechtigt, die abgetretenen Forderungen einzuziehen und die Vorbehaltsware zurückzunehmen; jedoch liegt ein Rücktritt vom Vertrag nur dann vor, wenn wir dies ausdrücklich schriftlich erklären.

Übersteigt der Wert der uns eingeräumten Sicherheiten unserer Forderungen um mehr als 10%, so werden wir auf Verlangen des Käufers insoweit Sicherheiten nach unserer Wahl freigeben.

Scheck-/Wechselzahlungen gelten erst nach Einlösung der Wechsel durch den Käufer als Erfüllung.

For deliveries made to the Netherlands

We refer to our general terms in Dutch.

For deliveries made to all other countries:

The seller remains the owner of all goods supplied to the buyer until payment has been received in full from the buyer. The goods shall remain the property of the seller and the buyer shall store them so that they are readily identifiable as seller's goods until payment for them and for all other goods agreed to be sold to the company had been received in full. Where ownership of any goods remains vested in the seller, the seller shall be entitled to repossess any goods supplied at any time. The seller may for the purpose of recovering its goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same. It is the sole responsibility of the buyer to ensure that all goods received from the seller are fully insured against any eventually including, but not limited to, fire, theft, flooding, etc. until such time ownership said goods has passed to the buyer. Should goods become damaged in any way after they have been received by the buyer, the buyer will be liable to pay to the seller the full purchase price of the goods.

Article 9. PAYMENT

1. Unless explicitly agreed otherwise, payment should be done to the account indicated by the seller. All payments are due on the last day of the payment term agreed at the latest.
2. Should the buyer not pay the amount due as stipulated in this article 9, he will be considered to be in default. In this case, Lithos Ingredients will be entitled to invoice to the buyer an interest of 1% per month of the amount due. This interest will be invoiced as from the due date where a part of a month is invoiced as a full month.
3. Should the seller be forced to call for legal aid because of a dispute about the concluded agreement where these terms are applicable to, the buyer also has to pay for the cost of this legal aid. These collecting-charges amount to 15% of the amount due with a minimum of Euro 500,- plus the actually made cost.
4. Should the seller get into a legal procedure with the buyer, he will, as party declared to be right, lay claim to both the liquidated processcost and the actually made cost of the lawsuit.
5. In case of overdue payments, the seller is entitled to postpone the delivery of other goods casu quo to cancel any agreement or parts thereof made with the buyer without notice or legal intervention or demand full indemnity of the buyer

Article 10. LIABILITY

1. The seller is not responsible for any damage, especially damage caused in or by the use of the goods supplied or by the fact that the goods have appeared to be unsuitable for the purpose for which the buyer wishes to use them.
2. Seller is not liable for any direct or indirect damage including business loss, damage to goods, or injury to persons, caused by the supplied goods or by advice or information provided.
3. without prejudice to the provisions made in 10.1 and 10.2, any of Seller's obligations to pay damages, on any account whatsoever, shall at any time be limited to the nett invoice value of the goods involved or, if this amount exceeds that, to the amount that Lithos Ingredients can get from their suppliers or insurance company.

Article 11. FORCE MAJEURE

1. The seller is not liable for any damages that result from a shortcoming that cannot be imputed to him. In any case, the following cannot be imputed to the seller: strikes in the seller's company, stagnation of supplies with regard to the seller's suppliers, fire, waterdamage, uncommon weather circumstances, war and threat of war, governmental measures, defects to equipment and installations, rationing of supplies of raw materials, energysupplies, transports and import/export and in general all circumstances that cannot realistically be influenced by the seller, despite the fact whether these might or might not have been foreseeable.
2. If a situation of Force Majeure should occur, the seller is entitled to cancel, ration or postpone the order and the resulting obligations for the period of the Force Majeure situation with the right to a reasonable period after the end of the Force Majeure to fulfill the obligations.
3. Should circumstances causing Force Majeure continue for a period of more than 3 months for one of the parties, the other party will be entitled to cancel the agreement for the future.

Article 12. CANCELLATION

Lithos Ingredients will be entitled to cancel the agreement under the following circumstances:

- Should the buyer not (fully) fulfill his obligations towards Lithos Ingredients and/or should the buyer be adjudged bankrupt and/or should the buyer apply for a letter of licence and/or should the buyer liquidate his company and/or Should the buyer have his funds and goods distrained on.

Article 13. DISPUTES

1. Dutch law applies to any disputes relating to an agreement concluded with the buyer to which these terms and conditions are applicable.
2. The disputes mentioned in 13.1 shall only be settled by the Court of Rotterdam, unless only the cantonal court is competent to take cognisance of the disputes.
