

## 1. Applicability

1.1 These conditions of sale are applicable to and are part of all sales agreements concluded by Circle Ingredients BV / WSM Holding BV, or its affiliated companies, as supplier/seller (hereafter: "supplier").

1.2 The supplier does not accept any general terms and/or conditions of purchaser or agent, except if and in as far as any condition or conditions have been accepted by supplier in writing.

1.3 If the supplier's order confirmation contains any conditions which deviate from these general conditions, the condition in the supplier's order-confirmation will prevail.

## 2. Agreement

2.1 All sales by the supplier are confirmed by the supplier in writing (i.e. by e-mail or fax or regular mail), and eventually approved and confirmed by a signed sales contract.

2.2 An order is only binding for the supplier if it has been confirmed in writing by a duly authorized representative of the supplier's office.

2.3 The purchaser is deemed to have accepted the supplier's order unless he has notified the supplier in writing to the contrary within 48 hours after the receipt of the confirmation of supplier.

2.4 The purchaser is also deemed to have accepted the supplier's order if he has requested the execution of the order.

2.5 Any (order) confirmation(s) from the purchaser which deviates from the supplier's order-confirmation, are only binding to the supplier if the supplier has accepted such deviations in writing.

2.6 The supplier's order may contain an abbreviated Incoterms condition (e.g. FOB, CIF, et cetera); the Incoterms conditions are to be interpreted according to the most recent definitions published by the I.C.C.

2.7 The supplier's delivery instruction form part of the agreement.

## 3. Price and terms of payment

3.1 Except for price changes in accordance with clause 3.2 the price in the supplier's order-confirmation is set fixed and exclusive of VAT. This price includes the costs of packing material.

3.2 Supplier is entitled to increase the price retroactively if the cost price determining factors have been subject to an increase. These factors include, but are not limited to: production costs, raw and auxiliary materials, energy, products or materials obtained by supplier from third parties, taxes, levies, governmental charges, freight costs and insurance premiums. Supplier shall notify purchaser of such increase.

3.3 Set-off or retention of payment by the purchaser is not allowed, unless supplier confirmed in writing that set-off or retention of payment is allowed by purchaser.

3.4 Purchaser shall be deemed to be in default without reminder or notice of default if it fails to effect payments due. Default interests may be charged at a rate of 12% per year. Circle Ingredients BV / WSM Holding BV may assert claims for loss or damage.

#### 4. Delivery and delays

4.1 Supplier is entitled to partial shipment of orders. Each delivery can be seen as a separate contract.

4.2 Supplier shall be released from the agreed delivery dates and periods to the extent that and as long as circumstances occur, which substantially impede performance. All difficulties, irrespective of their nature, the sphere and segment of the supply chain in which they occur, such as force majeure and acts of god (e.g. flooding, ice, loss of harvest, epidemics, et cetera) export and import restrictions, problems in production, problems in procuring commodities, disruption of operations (breakdown of equipment or machinery, fire, et cetera), strikes, shortage of personnel or any similar actions, states of emergency or loading and transportation difficulties are deemed to be substantial impediments to performance.

4.3 In the event of a substantial impediment to performance under clause 4.2, Circle Ingredients BV / WSM Holding BV is entitled to rescind the contract with immediate effect without liability for damages, costs or compensation or to extend the agreed delivery period by the duration of such impediment and time required to make adjustments or to be able to deliver. If such an

extension period will be longer than five months, than buyer or purchaser may rescind the agreement. If continuation of the agreement appears unreasonable for either party before the extension period has expired, that party may rescind or terminate the contract. Supplier shall give notice to the purchaser of the duration of the extension period.

4.4 In case of extension of delivery, supplier is entitled but not obliged to supply goods equivalent to those agreed with purchaser or to replace failed deliveries with third-party goods of equal value and quality within the extension period. In case of damage, supplier seller is not obliged to substitute goods.

4.5 In case purchaser is in default with any obligation under the agreement with supplier, than Circle Ingredients BV / WSM Holding BV is entitled to postpone delivery by the same number of days as purchaser was in arrears in addition to a reasonable period for making appropriate arrangements. Supplier is also entitled to suspend its own obligations as long as purchaser is in default. In case purchaser becomes subject to bankruptcy law, supplier may either suspend any obligations or cancel further deliveries; any loss or damages incurred by purchasers default is for the account of purchaser.

4.6 Because of applicable EU law supplier is entitled to request purchaser for duly certified copies of custom's documents, certifying that the goods delivered by supplier have been put into free circulation in the country of destination outside the EU Purchaser will hand these documents upon first request by supplier.

## 5. Examination and conformity to specifications

5.1 On delivery the purchaser shall examine the goods and verify that the delivered goods meet all contractual requirements.

5.2 Any complaints about the delivered goods should be made in writing and should reach seller not later than seven (7) days of the date of delivery and in the event of hidden defects within seven (7) days from the date of discovery of any non-conformity of the goods. The use or processing of the goods shall be deemed to be an unconditional acceptance of the goods and a waiver of all claims in respect of the goods. The goods must be retained in their transport containers on sight to enable Circle Ingredients BV / WSM Holding BV to assess whether the claim is justified.

5.3 Determination of (non)conformity of the delivered goods shall be done solely by analyzing the samples or records retained by suppliers and taken from the batches or production runs of the delivered goods. The goods may only be returned to supplier if supplier has confirmed this in writing. Returning of goods takes place at risk of purchaser.

5.4 Duly specified complaints do not affect the obligation of purchaser to pay the price for the goods. Upon receipt of a notice of defect, supplier is entitled to suspend all further deliveries until the complaints are investigated and established to be unfounded and/or refuted or until the defect has been totally cured.

## 6. Transfer of risk and property

6.1 The risk of the goods shall pass to purchaser on delivery.

6.2 In case delivery is suspended pending payment by purchaser, as well in case of goods which delivery is wrongfully rejected or not accepted by purchaser, the goods shall be held and stored by seller at the risk and expense of purchaser.

6.3 Supplier shall retain title to the goods and ownership of the goods shall not pass to purchaser and the full legal and beneficial ownership of the goods shall remain with supplier, unless and until supplier has received payment in full for the goods, including all secondary costs, such as interest, demurrage, charges, expenses, et cetera.

6.4 In the event of termination of the agreement with purchaser, supplier shall, without prejudice to any other rights of supplier, be entitled to require immediate re-delivery of the goods for which it may invoke the retention of title.

6.5 Until payment for the goods has been done, purchaser is entitled to use the goods solely to the extent required in its ordinary course of business, and, to the extent possible, shall

- (i) keep the goods separate clearly identified as goods of the supplier;
- (ii) notify seller immediately of any claims by third parties which may affect the goods; and
- (iii) adequately insure the goods.

## 7. Liability

7.1 In case liability of supplier is established, such liability is limited to the loss or damage which was foreseeable at the time the contract was concluded up to a maximum amount equivalent to the purchase price agreed with supplier. Under no circumstances supplier shall be liable to purchaser for any other kind of special, incidental, direct or indirect, consequential or punitive damages or loss, cost or expense, including without limitation, damage based upon loss of goodwill, loss of business, loss of sales or profits, work stoppage, production failure, impairment of other goods or otherwise and whether arising out of or in connection with breach of warranty, breach of contract, misrepresentation or otherwise.

## 8. Rights of Circle Ingredients BV / WSM Holding BV

8.1 Circle Ingredients BV / WSM Holding BV may refuse performance under the contract, if:

- (i) the purchaser falls into arrears with the acceptance of a delivery or payment;
- (ii) doubt arises as to the purchaser's solvency and willingness to pay;
- (iii) the purchaser's company is liquidated or an administrator has been appointed or control over purchaser's company is transferred to a competitor of Circle Ingredients BV / WSM Holding BV, or
- (iv) the credit limit of Circle Ingredients BV / WSM Holding BV's credit insurance and/or internal credit limit for delivery of the goods is exceeded or if the credit insurance and/or internal credit limit is withdrawn.

8.2 In cases supplier deems it necessary it is entitled to command payment in advance against delivery of a notice of goods cleared for loading.

## 9. Waiver

9.1 Failure of supplier to enforce at any time any provision of these conditions, shall not be construed as a waiver of supplier's rights to act or to enforce any such term or condition.

## 10. Limitation of action

10.1 No action by purchaser shall be brought unless purchaser first provides written notice to supplier of any claim alleged to exist against seller within thirty (30) days after the event complaint of first becomes known to purchaser and an action is commenced by purchaser within twelve (12) months after such notice, after which period all claims are barred.

## 11. Governing law and jurisdiction

11.1 All disputes that arise from or in connection with the agreement and further agreements resulting there from, will be subject to the exclusive jurisdiction of the competent court in The Netherlands.

11.2 The agreement is governed by Dutch law.

11.3 The applicability of the U.N. convention on contracts for the international sale of goods (CISG), concluded in Vienna on the 11th of April 1980, is excluded.

## 12. Compliance with laws and standards

12.1 Supplier makes no promise or representation that the goods shall conform to any law statute, ordinance, regulation codes or standard ("laws and standards") unless expressly stated in supplier's confirmation or in the specifications. The goods may be subject to requirements or limitations under laws and standards in the country of delivery of the goods. Purchaser shall be exclusively responsible for:

- (i) ensuring compliance with all laws and standards associated with its intended use of the goods; and
- (ii) obtaining all necessary approvals, permits or clearances for such use.

## 13. Intellectual property

13.1 The sale of goods to purchaser shall not convey any license or right under any intellectual property rights, relating to the compositions and/or applications of the goods, and purchaser expressly assumes all risks of any intellectual property infringement by reason of its importation and/or use of the goods, whether or not in combination with other materials or in any processing operation.

13.2 Supplier has not verified the possible existence of third party intellectual property rights, which might be infringed as a consequence of the sale and delivery of the goods and supplier cannot be held liable for any loss or damages in that respect.

## 14. Insurance clause

14.1 Delivery conditions & insurance are as described in the latest edition of Incoterms

Should local legislation demand that the purchaser insures the goods during transport, then the local legislation overrules this insurance clause.

