

1. General

1.1 In these Terms the following expressions will have the following meaning:

“Agreement” means any agreement (written or oral) between Flavour Products bv and Customer concerning the sale and delivery of the Goods.

“Customer” means the person(s), firm or company to whom Flavour Products bv supplies the Goods.

“Goods” means any goods of whatever nature (including any of them or any part of them) which Flavour Products bv supplies to Customer or any service Customer receives from Flavour Products bv under an Agreement.

“Parties” means Flavour Products bv and Customer (and individually a “Party”).

“Flavour Products bv” means Flavour Products bv maintaining its offices at Nudepark 99-D, NL-6702 DZ Wageningen, The Netherlands and registered at the Dutch Chamber of Commerce under nr: 70980527, and/or any of its subsidiaries or affiliates.

“Specifications” means the technical specifications and formulae for the Goods of Flavour Products bv.

“Terms” means the general terms of sale set out in this document together with any special conditions agreed in writing between Flavour Products bv and Customer.

1.2 Unless otherwise agreed in writing, these Terms are part of and applicable to each request, quotation, order and Agreement for the supply of Goods by Flavour Products bv to Customer.

1.3 The applicability of any purchasing terms and/or conditions of Customer to any Agreement is explicitly rejected by Flavour Products bv.

1.4 References to any number of days shall mean calendar days.

2. Quotations and Agreements

2.1 Quotations and offers made by Flavour Products bv for the sale of Goods are subject to confirmation.

2.2 Orders from Customer are only binding if confirmed by Flavour Products bv, by sending a written acceptance to Customer. The written acceptance of an order by Flavour Products bv constitutes an Agreement between the Parties.

2.3 The quantity, quality and description of the Goods shall be as set out in Flavour Products bv's written acceptance or in the delivery note, as the case may be.

3. Prices

3.1 The price for the Goods will be the price stated in the Agreement. Unless otherwise stated in the Agreement, the price shall be exclusive of packaging, loading, transport, warehousing and insurance, VAT and any other taxes, duties or levies.

3.2 Unless otherwise agreed in writing, Flavour Products bv is authorised to adjust the prices during the term of the Agreement to reflect (i) any increase of Flavour Products bv's actual costs for purchasing individual components like raw materials, packaging, energy etc., (ii) any change in delivery dates, quantities or Specifications for the Goods requested by the Customer or (iii) any delay caused by failure of Customer to provide adequate information or instructions.

4. Payment

4.1 Unless otherwise agreed in writing, payment shall be effected against invoice, inclusive of VAT, to the bank account nominated by Flavour Products bv and within fifteen days from the date of invoice.

4.2 Customer shall make all payments in euros, unless agreed otherwise in writing, without set-off or counterclaim and free and clear of all taxes, deductions, withholdings and other charges.

4.3 From the moment any sum is due and not paid, Flavour Products bv shall, in addition to any other damages caused by such action, be entitled to claim payment of one per cent compound interest per month in respect of the total of the invoice value, it being understood that a part of a month will be charged as a full month, until full payment of the outstanding amount has been received by Flavour Products bv. If payment has not been

made in accordance with this paragraph, Customer shall be obliged to pay all extra-legal (extrajudicial and judicial) costs of collection.

4.4 All claims relating to invoices must be notified in writing with documentary evidence to Flavour Products bv within seven days from the date of invoice. Thereafter, Customer shall be deemed to have approved the invoice. Customer is not entitled to suspend its payment obligations.

5. Delivery

5.1 Delivery of the Goods shall be made by Flavour Products bv delivering the Goods to the Customer's premises or such other place as may be agreed, or by Customer collecting the Goods at Flavour Products bv's premises, and in accordance with the latest version of the Incoterms as set by the International Chamber of Commerce.

5.2 Any quoted delivery dates are indicative only and Flavour Products bv shall not be liable for any delay in delivery of the Goods. Time for delivery shall not be of the essence of the Agreement, unless otherwise agreed in writing. Flavour Products bv shall notify Customer as soon as possible regarding any foreseeable delay to a delivery.

5.3 Flavour Products bv may deliver the Goods by instalments and each delivery shall constitute a separate Agreement.

6. Transfer of risk and title

6.1 All risks of loss or damage relating to the Goods shall pass to Customer on delivery.

6.2 The property of the Goods will pass to Customer after full payment of all amounts which Flavour Products bv is entitled to claim from Customer for the Goods delivered to Customer pursuant to the Agreement as well as due to its being in default of observing the Agreement or these Terms.

6.3 Goods delivered by Flavour Products bv under retention of title may only be resold by Customer within the scope of its normal business activities and only in an arm's length bona fide transaction at full market value or at a proper trade discount.

6.4 Customer is obliged to ensure that the Goods that are (still) the property of Flavour Products bv remain or are rendered identifiable. Should Customer be in default or should there be good reason to suspect that Customer may default on any of its obligations, Flavour Products bv shall be entitled to remove the Goods belonging to it from Customer's possession or from the possession of a third party holding the Goods on behalf of Customer at Customer's expense.

6.5 Customer undertakes to insure and keep insured against loss, damage and theft all the Goods delivered under retention of title and to make the insurance policy available for inspection by Flavour Products bv on request.

7. Inspection, claims and notification

7.1 On delivery of the Goods, Customer shall inspect the Goods for defects without undue delay.

7.2 All claims relating to the Goods must be notified in writing with documentary evidence to Flavour Products bv within ten days from the date of delivery with respect to any defect, default or shortage which would be apparent from a reasonable inspection on delivery and five days from the date on which any other claim was or ought to have been apparent, but in no event later than three months after the date of delivery of the Goods.

7.3 The Goods shall not be returned to Flavour Products bv without prior consent of Flavour Products bv.

8. Warranties and liability

8.1 Flavour Products bv warrants that it has, or will at the time of sale have, title to sell the Goods to Customer and that the Goods sold to Customer will be in conformity with the Specifications at the time of delivery.

8.2 Unless otherwise agreed in writing or defined herein, Flavour Products bv does not make and hereby expressly disclaims all other express or implied representations or warranties, including but not limited to non-infringement, remainder in effect,

merchantability, accuracy, title, enforceability, fitness for a particular purpose of the Goods or conformity to any law, regulation or standard.

8.3 If the Goods are not in conformity with the Specifications at the time of delivery Customer has at its choice the following remedies which are the sole and exclusive remedies available to Customer:

- a) replacement of the (part of the) delivered Goods concerned by Flavour Products bv; or
- b) reimbursement of the price of (part of) the delivered Goods by Flavour Products bv.

8.4 Flavour Products bv's cumulative liability in connection with or arising out of the Agreement or these Terms however caused and whether arising under statutory law, contract, negligence, duty to undo or any other theory of liability, will in no event exceed the lesser of (a) the sum of the purchase price paid by Customer to Flavour Products bv for the batch of the Goods in respect of which such liability arises or (b) the amount of EURO 50.000.

8.5 Neither Party shall be liable to the other Party for any incidental, consequential, special, indirect or exemplary damages arising from or in connection with the Agreement, including lost profits or costs of cover, loss of use, product recall costs, business interruption or the like.

8.6 Customer must notify Flavour Products bv of any claim within two months after the loss causing event, failing which all claims are deemed to be waived.

8.7 The limitations of liability set forth in these Terms apply to the maximum extent permitted under applicable law and regulations. Nothing in these Terms will limit either Party's liability in a manner that would be unenforceable or void as against public policy in the relevant jurisdiction.

9. Specifications and samples

9.1 Flavour Products bv is entitled to make changes to the Specifications which are required to conform to any applicable statutory requirements or which do not materially affect the quality of the Goods.

9.2 If any Goods are made or altered by Flavour Products bv in accordance with a specification of Customer, the latter shall indemnify Flavour Products bv against all costs, claims, damages and expenses arising from or in connection with such specification including the infringement of any intellectual property rights therein.

9.3 Unless otherwise agreed in writing, any samples supplied to Customer are for information purposes only and do not imply any express or implied representation or warranty.

10. Non-performance and termination

10.1 Customer will be in default:

- a) if Customer commits a breach of any of the provisions of the Agreement or these Terms and (i) the breach has not been remedied within a period of seven days from the date of a written notice requesting the remedy or (ii) such breach is incapable of remedy; or
- b) in case Customer becomes bankrupt, requests suspension of payment, is declared commercially incompetent by order of the court, enters into liquidation, compounds with its creditors or takes or suffers any similar action in consequence of debt or is unable to pay its debts as they mature, or is involved in any insolvency or reorganisation proceedings supervised by a court.

10.2 In the event of default by Customer, Flavour Products bv will be entitled to, without prejudice to its other rights and remedies and without being liable for any compensation, by giving Customer written notice taking immediate effect:

- a) cancel the Agreement, either partially or entirely;
- b) cancel or suspend further deliveries;
- c) take repossession of any delivered Goods which have not been paid for; or
- d) demand compensation for the damages and costs incurred.

10.3 In the event of default by Customer all indebtedness of Customer to Flavour Products bv shall become due and payable and shall be paid immediately.

11. Force majeure

11.1 Neither Party will be liable for any failure or delay in its performance under the Agreement, except the making of payments, due to causes which are beyond its reasonable control, including an act of civil or military authority, fire, epidemic, flood, earthquake, riot, war, sabotage, terrorist attack, strikes, labour disputes, lock out of workers, transport problems, import or export restrictions, breakdowns or accidents to machinery, shortage of materials in the market, financial or other crisis, failure of suppliers or governmental action.

11.2 In the event of such force majeure, the Party claiming the occurrence thereof shall promptly inform the other Party in writing and shall use reasonable efforts to resume performance of its obligations, or any part thereof, as soon as possible.

12. Miscellaneous

12.1 The provisions of the Agreement may not be modified or amended, except by a written instrument duly executed by each Party.

12.2 Neither Party may assign or transfer any of its rights or obligations under the Agreement without the prior written consent of the other Party, except that Flavour Products bv may assign or transfer any or all of its obligations under the Agreement to any affiliated company.

12.3 If any provision of these Terms or the Agreement is determined to be invalid or unenforceable under applicable law, such provisions shall be amended by the Parties to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions of this Agreement shall continue in full force and effect

12.4 Neither the United Nations Convention on Contracts on the International Sale of Goods, nor the Uniform Laws on International Sales shall apply to the Agreement.

13. Governing law and jurisdiction

13.1 The Agreement and these Terms shall be governed by and construed in accordance with the laws of the Netherlands.

13.2 All disputes that may arise from or in connection with the Agreement or these Terms shall be settled under the rules of arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules. The arbitration shall be held in Amsterdam, in the English language, shall be in law and shall be binding on the Parties