

## GENERAL CONDITIONS OF SALE

### 1. DEFINITIONS

In these general conditions of sale, the following words and expressions, unless the context requires a different interpretation, will have the following meaning:

- “SUPPLIER” refers to **Cantine Brusa spa** with its registered office in Via Emilia 100, Toscanella di Dozza (BO), Italy.
- “CUSTOMER” refers to the company the purchase order is received from.
- “Products” refers to products indicated in the Order Confirmation.
- “Price” refers to the price indicated in the Order Confirmation.

### 2. OBJECT AND SCOPE

**2.1** All the sales and supplies made by the SUPPLIER will be exclusively regulated by these General Conditions of Sale. The CUSTOMER’s acceptance of any offer is limited to these General Conditions of Sale.

**2.2** The Parties assign to these conditions a privileged and strengthened efficacy, therefore any supplementary and/or different word or condition will be part of the Contract between the CUSTOMER and the SUPPLIER only subject to the SUPPLIER’s written approval and they will prevail over any general rules submitted by the CUSTOMER. The SUPPLIER’s acceptance of any purchase request by the CUSTOMER is expressly conditional to the CUSTOMER accepting these General Conditions of Sale.

### 3. ORDERS

**3.1** Any order, order proposal, or supply request forwarded to the SUPPLIER represents a contractual proposal to the SUPPLIER, being the Supplier free to accept or refuse the order according to the SUPPLIER’s unquestionable judgement.

Within 5 working days, the SUPPLIER shall notify the CUSTOMER whether the order is accepted by sending an “order acknowledgment” with price schedule having evaluated the CUSTOMER’S request. The CUSTOMER is bound to check all order acknowledgments upon receipt and to submit any remarks within 2 working days. Lacking any remarks the order acknowledgment is considered accepted.

When the conditions between the Parties provide advanced payment, the order acknowledgment is considered accepted at the time of payment.

**3.2** Unless otherwise agreed between Parties, the CUSTOMER, with the acceptance of the Order Acknowledgment in accordance with article 3.1 is obliged to take delivery on time and to pay the agreed amount.

Requests of Modification by the CUSTOMER to orders already confirmed by the SUPPLIER will be considered and analysed only if arrive within 2 working days from receipt of the formal “order acknowledgment”.

In any case, the SUPPLIER has the right, at its discretion, to refuse or accept requests for order amendments.

Modified orders will be subject to a new scheduling activity and promised delivery date can be amended from the SUPPLIER.

**3.3** The CUSTOMER agrees to place written orders with the SUPPLIER sending an e-mail to Cantine Brusa's agent for his commercial area.

The order should be made in writing and should indicate at least the following data:

- a) codes and description of Product;
- b) needed quantity for each specific Product;
- c) destination address for the ordered goods;
- d) date on which the goods are requested to be ready-to-load at the SUPPLIER's warehouse.

#### **4. DELIVERY TERMS**

**4.1** Unless otherwise stated by the SUPPLIER in writing, goods delivery is intended **FCA** Seller's warehouse, Toscanella - Italy, according to ICC Incoterms 2010.

**4.2** In any case all costs related to the transportation of the products are born by the CUSTOMER. Upon delivery to the CUSTOMER, to the shipper, to the carrier or to whoever is in charge of the transportation, the liability of whole or partial loss of the products is transferred to the CUSTOMER.

It is understood between the Parties that the Product shall be considered delivered at the moment in which it is made available to the CUSTOMER at SUPPLIER's warehouse.

In particular, the CUSTOMER has the right to inspect and verify personally and or by its authorized representatives or by a qualified organization on his behalf and at his costs the products ready for delivery in accordance with article 4.1. Inspection shall be executed at the moment the goods are loaded on the truck (FCA according to INCOTERMS 2010). Should the CUSTOMER renounce to such right, goods are considered complying for quantity and quality with the order acknowledgment and the delivery documents and no claim will be accepted on arrival for faulty quantities and/or damaged goods and/or packages.

**4.3** If the CUSTOMER does not take delivery of the Products within 2 working days from the agreed delivery date indicated in the Special Conditions of sale, the SUPPLIER has the right, at its discretion, and at the CUSTOMER's risk and expense, to stock the Products in its or third-party warehouse.

If Products are hold at the SUPPLIER's warehouses, a stock charge will be invoiced to the Customer.

As an alternative and at its sole discretion, the SUPPLIER has the right to terminate the present Agreement if the agreed delivery date indicated in the Special Conditions of sale will be not respected.

**4.4** The delivery date shall be not be considered as essential terms and the SUPPLIER reserves the right to suspend or extend delivery date in the following case:

- a) should the CUSTOMER not communicate the information that are necessary to perform the supply within 15 working days before scheduled delivery date;
- b) should the CUSTOMER require changes after the approval of the order acknowledge as per art. 3.1.;
- c) should the CUSTOMER have outstanding payments;
- d) should the CUSTOMER's statement of assets and liabilities and /or the CUSTOMER's credit be considered as hindering payment according to the SUPPLIER's unquestionable judgement;
- e) should the CUSTOMER not comply with its obligation to apply and obtain necessary import license in his Country;
- f) in case of delay in the delivery of raw materials necessary to manufacture the Product.

## **5. PRICES**

**5.1** Price are those indicated in the Order Acknowledgment.

SUPPLIER at its sole discretion reserves the right to not proceed with the delivery of Products or to modify prices also after the conclusion of the sale Agreement and following the issue of the Order Acknowledgment, in the event that the price of raw materials increases more than 30% compared to the time when the price was indicated in Order Acknowledgment. The price increase will have to be attested by competent Authorities.

Prices are inclusive of standard packing suitable for shipment. Special packing required for *groupage* shipments and airfreight forwarding are separately charged accordingly.

**5.2** Taxes, stamps, custom duties and any other supplementary cost are not included in the prices. Unless otherwise agreed between Parties, such costs and expenses will be paid by the CUSTOMER and, in case they are paid by the SUPPLIER, their amount will be invoiced to the CUSTOMER.

## **6. PAYMENTS**

**6.1** Unless otherwise agreed in writing the payment will be made in compliance with what indicate in the Order Confirmation

**6.2** Should an agreement be reached on extended payments, and an instalment not be paid within the expiring date agreed between the Parties, the SUPPLIER will be entitled to require the payment of the whole amount, without considering the CUSTOMER's payment deadline. Otherwise, the SUPPLIER will consider the agreement as cancelled due to breaching and keep all the amounts paid by the CUSTOMER until that moment as a damage reimbursement, without prejudice for further request of damages.

In any case, SUPPLIER reserves the right to charge interest equal to the amount provided by the Italian competent authority at the time of unpayment on the amount indicated in Order Confirmation for every day of delay compared to the agreed dates for payments and indicated in the commercial invoice.

**6.3** Should the CUSTOMER's statement of assets and liabilities put the payment at risk, the SUPPLIER, in its unquestionable opinion, will be entitled to interrupt the product delivery.

## **7. RETENTION OF TITLE**

In any case, the product ownership is handed to the CUSTOMER only upon the total payment of the relative invoice. Should the amount indicated in the above-mentioned invoice not be paid, the SUPPLIER will expressly have the right to claim the ownership of the products also towards third parties.

## **8. CLAIMS**

**8.1.** The SUPPLIER shall hold a sample of each delivered Product's lot. This sample shall be sealed with the seal of the SUPPLIER and by this preserved.

The claims for defective Product shall be taken into account by the SUPPLIER only in case the Product's defect will be found also in the sample held by the SUPPLIER.

**8.2.** In case of defective Product the CUSTOMER shall make the claim as follows:

a) for defects regarding packaging or other obvious characteristics of Products (obvious defect), the claim shall be made, in writing (also fax or e mail) within 3 days from the delivery of Products.

b) for hidden defects, the claim shall be made within 7 days from the discovery of the defect.

In any case, the claim shall be made within the maximum terms indicated in art. 9.

The CUSTOMER shall make available to the SELLER the defective Product.

It's been understood between the Parties that the delivery to the CUSTOMER of the analysis' certificate regarding the Products release the SELLER from liability for gross negligence or willful and for any damages concerning the quality of the Products.

**8.3.** The CUSTOMERS undertake to store the Product in compliance with the indication provided by SUPPLIER.

The SUPPLIER shall not be held responsible for claims that are not supported by adequate technical documentation and photographic shows that prove the proper storage of Products.

**8.4.** Any claim shall contain:

a) Product's data and lot number;

b) defect's details;

c) photographic and any other documentations regarding above points a) and b).

**8.5.** If request by the SUPPLIER, the CUSTOMER shall send to the SUPPLIER, at its own cost, in addition to all the documentation requested as per art. 8.3. and 8.4., a sample of defective Products.

**8.6.** It's been understood by the Parties that eventually claims not entitle the CUSTOMER to suspend or delay payment of the Products involved in the dispute either suspend or delay the payment of other supplies.

**8.7.** The SUPPLIER does not accept claims in case the BUYER has manipulated, mixed, worked with other ingredients the Product.

## **9. WARRANTY**

9.1 The SUPPLIER provides a shelf life (indicated on Products specifications) warranty period for Products, starting from the date of Product's manufacture. Missing a formal evidence of the date of delivery to the CUSTOMER, the warranty is considered starting from the SUPPLIER's invoice date.

Any different agreement in terms of warranty policy must be confirmed in writing by the SUPPLIER.

The warranty is considered valid only if the CUSTOMER can prove that he has correctly storage the Product in compliance with the technical specifications provided by the SUPPLIER.

9.2 The SUPPLIER, after verification of the complaint and confirmation that the defect is covered by warranty as per art 8, SHALL, at its sole discretion, replace the Products at no costs for the CUSTOMER or reduce the price of the Product.

If the defect is not considered under warranty, all relevant costs born by the SUPPLIER will be at CUSTOMER's charge.

9.3 - During the warranty period the SUPPLIER commits to replace the complained Product, should the following conditions be respected:

- a. the CUSTOMER has communicated the complaint in writing as per art. 8;
- b. the SUPPLIER found the defect also in its sample;
- c. the SUPPLIER has the chance to inspect the product;
- d. the inspection or the documentation showed that those defects were not caused by incorrect use and/ or maintenance, accident, misuse through fault or negligence;
- e. the CUSTOMER has accurately respected the payment terms.

9.4 Under warranty obligation and upon acceptance of said complaint, within the limit of the present Conditions of Sale, the SUPPLIER commits to replace the faulty product without any further refunding obligation deriving from direct and/or indirect and/or subsequent damage deriving to the CUSTOMER or any third parties due to product defects.

## **10. FUTHER CUSTOMER OBLIGATIONS**

10.1 By purchasing the SUPPLIER's products the CUSTOMER expressly agrees to respect the following conditions:

- the CUSTOMER shall store the Products in compliance with technical specification provided by the SUPPLIER;
- the CUSTOMER shall set up a reliable and suitable system of storage;
- the CUSTOMER shall guarantee identification and traceability data of each Product acquired;
- the CUSTOMER shall inform the SUPPLIER in writing of any non - conformities according to clause 8 and 9;
- the CUSTOMER agrees to recall immediately all Products in respect of which a request to that effect is made by the SUPPLIER or by Competent Authorities;

**10.2** Warranty rights will be automatically void if the CUSTOMER does not respect the conditions set in the above art. 10.1 and in no case the SUPPLIER will be responsible for any request of damages or liability deriving from the CUSTOMER or from any third party.

## **11. LABELLING**

**11.1.** In case the CUSTOMER requires a custom labeling for the Product, the SELLER shall send a file containing the labelling project and image that the CUSTOMER shall approve in writing.  
After the CUSTOMER's approval, label's project and image shall be considered accepted.

**11.2.** It's been understood between the Parties, that the CUSTOMER that require a custom labeling shall indicate to the SELLER the specific content and details to be included in the label under its own responsibility. Any claim made by the custom or other authority or third party regarding the non-conformity of the label to any regulation or applicable law shall be support by the CUSTOMER.

**11.3** In case of standard label made by the SUPPLIER, the CUSTOMER shall not add, create or change labelling of the Product without prior written consent of the SUPPLIER.

If the CUSTOMER does not respect the present clause, the SUPPLIER is entitled to request damages.

The CUSTOMER, under its own responsibility, shall inform the SUPPLIER of any particular requirement of the legislation in its country regarding the labelling. Therefore the SUPPLIER shall not be held responsible for each non - conformity of the standard label to the regulation applying by CUSTOMER's country regarding the labelling and not communicate to the SUPPLIER.

## **12. Confidentiality**

The CUSTOMER commits to keep any and all information or technical data relating to the purchased products, their operation or use, as well as any administration or commercial information relating to the assets sale contract (price, terms of payment and warranty etc.) confidential and not to disclose them to third parties, when this is not strictly necessary for the legal use of purchased assets, and for all the relationship terms and for further three years from each product last delivery.

## **13. Industrial and intellectual property**

The purchase of products and their direct or indirect use shall not give rise to any transfer to the CUSTOMER of any industrial or intellectual property right on sold products, which shall remain the SUPPLIER's right.

## **16. Severability**

If any provision or provisions of the present General conditions of sale shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

## **17. Force Majeure**

Neither Party shall be liable or responsible for damages, or in any manner whatsoever to the other Party, for failure or delay in performing or fulfilling any provisions of this General Conditions when such failure or delay is due to the occurrence of an event of force majeure such as acts of God, fires, strike, acts of public authorities, labour or employment difficulties, shortage of raw materials, or delays or default caused by public carriers or any other action or cause whatsoever, similar or dissimilar, which cannot reasonably be forecast or provided against and which cannot be overcome with reasonable diligence.

In such event, the time for performance shall be extended for the period of continuance of such force majeure event.

In the event any of such cause of force majeure event continuing for a period longer than 3 months, the Parties hereto shall mutually discuss the matter and the course of action to be taken. After this period the party not affected by the force majeure event shall have the right to terminate the sale agreement that is being performed by giving written notice to the other party by registered letter with return receipt.

#### **18. HARDSHIP CLAUSE**

In case of events that fundamentally alters the equilibrium of the sale agreement either because the cost of a Party's performance has increased or because the value of the performance a Party receives has diminished, and

(a) the events occur or become known to the disadvantaged Party after the conclusion of the sale agreement;

(b) the events could not reasonably have been taken into account by the disadvantaged Party at the time of the conclusion of the sale agreement;

(c) the events are beyond the control of the disadvantaged Party; and

(d) the risk of the events was not assumed by the disadvantaged Party,

the disadvantaged Party have the right to ask for the renegotiation of the sale agreement and/or terminate the sale agreement by giving written notice to the other party by registered letter with return receipt.

#### **19. Applicable Law and Jurisdiction**

19.1 The sales contract shall be governed and construed in compliance with Italian law.

19.2 In case of EU (European Union) and EFTA (European Free Trade Association) Countries or Brazil, Argentina, Egypt, Lebanon, Morocco, Moldova, China, Kuwait, CIS (such as Armenia, Azerbaijan, Belarus, Russian Federation, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Uzbekistan), Tunisia and Turkey, the competent court shall be Bologna.

For the countries not mentioned above any dispute arising out of or in connection with the present contract shall be resolved in good faith based on Mediation proceeding and if not possible within four months from the start of negotiations, shall be finally settled in accordance with the Rules of Conciliation and Arbitration of the Chamber of Commerce of Milan, by one or more arbitrators appointed by a mutual agreement of the parties within 30 days from the request for arbitration; and if the parties fail to reach an agreement, the arbitrator(s) shall be appointed by the Arbitral Council in accordance with the Rules. The arbitrators shall decide ex aequo et bono and shall explain and provide the reasoning underlying their ORDERS and awards. The seat of the arbitration shall be in Milano and it shall be conducted in the English language.