

TERMS & CONDITIONS OF SALE

1. Interpretation

1.1 In these conditions:

“Customer” means the person, firm, body or company whose order for the Goods is accepted by the Seller.

“Goods” means the goods (including any Item of the goods which the Seller is to supply in accordance with these Conditions).

“Seller” means Futura Ingredients Singapore Pte Ltd, Ecolex Sdn Bhd or its other related companies.

“Conditions” means the standard terms and conditions of sale set out in this document.

“Contract” means the contract for sale and purchase of Goods.

“Writing” includes facsimile transmission and electronic transmission.

1.2 Any reference to any clauses are to be referred to in these conditions.

1.3 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.4 The headings in these conditions are for the purpose of convenience only and shall not affect the interpretation

2. Applicability

All sales by Seller are only subjected to the following conditions, notwithstanding anything contrary to the Customer’s general conditions of purchase or in any other document(s) issued. In the event there is any conflicting or additional terms and conditions of any such documents it shall be deemed not binding upon the parties, except insofar as expressly agreed in writing by the seller.

3. Terms

3.1 Subject to clause 4.3, any order accepted by the seller is subjected to the terms hereinafter referred to as conditions, warranties, exclusion clauses and any other relevant provisions. (Other than those terms spell out expressly or impliedly, exclude or prohibit by the Law of Singapore which governs the contract.) The Contract shall be deemed void and unenforceable if there is a failure of compliance even if there is an extrinsic document(s) supplied or referred to by the customer.

3.2 Any terms and conditions stipulated by the Customer which are in addition to and inconsistent with these terms stipulated under Clause 3.1, is deemed to be a counter offer and not an acceptance by the Seller unless agreed to in writing by the seller. Hence, if the Seller rejects or does not accept the new offer, the new offer shall set off any terms and conditions and held as inapplicable.

4. Variation Clause

4.1 No variation to these Conditions shall be binding unless agreed to in Writing by the Seller.

4.2 The Seller’s employees or agent are not authorized to make any variation or representation to these Good’s Conditions unless approved by the Seller in writing. By virtue of the above said, the Seller cannot be held liable for any detriment arising from any representation made or variation.

4.3 Customer, its employees or agent(s) who acted upon any advise, opinion or recommendation given by the Seller, its employees or agent(s) as to the storage or handling of goods which was not authorized in writing shall undertake the risk entirely.

5. Formation of Contract

Quotations made by the Seller are not to be treated as binding unless expressly stated otherwise. The contract (Sales Order Confirmation) between Seller and Customer shall only be formed upon Seller's written confirmation of the Customer's order through the Sales Order Confirmation.

6. Orders

6.1 In placing an order for Goods the Customer acknowledges that all information contained in the brochures, pricelists, advertisement, and other promotional materials regarding weight, measures, ingredients and other data relating to the Goods are merely an estimation and only to served as a general guideline and shall not be regarded as binding upon the Seller. The Customer also acknowledges that the information is best to the Seller's knowledge at the date of printing and there shall not be treated as a representation of whatsoever nature. It is the Customer's duty to ensure that the nature and quality of Goods suits to their common purpose.

6.2 In the event there is typographical, clerical, error or omission in the Contract, pricelist, invoice, acceptance of offer or other relevant document. The Seller reserved the right to make amend and correction without being held liable.

6.3 The Customer are held responsible at all times to ensure compliance to the terms of order and giving the seller all necessary information relating to the Goods for the Seller to perform the Contract in accordance to the term.

6.4 The Seller reserved the right to make any changes in the specification of Goods whenever there is a need arises to conform with the Statutory requirement or at the Seller's specification without affecting the quality.

6.5 Once the offer to purchase is accepted by the Seller, no cancellation is allowed unless with the Seller's written consent and upon the condition that the Customer shall indemnify the Seller in full against all losses (including loss of profit, cost price, labor charges and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

7. Price of the Goods

7.1 The price is exclusive of VAT and any local sales taxes. Any applicable VAT / local sales taxes will be charged as an addition to what the Customer already liable to pay to the Seller.

7.2 The price, duties, taxes and other public charges are based on the exchange rates applicable at the time of the formation of Contract (Sales Order Confirmation). The Seller reserved the rights to adjust the rate in the event there is any discrepancy to the price, duties, taxes and other public charges.

7.3 In the event there is an increase in price for utilities, raw materials or other resources necessary for the manufacturing of the products occurring prior to the agreed date of delivery, the Seller reserved the right to increase the price of the Goods ordered in proportion thereto by giving a written notice to the Customer and following which the Customer shall reserve the right to cancel the sales order confirmation within seven days upon receipt of such notice.

7.4 Unless otherwise agreed in Writing by the Seller, the Seller reserves the right to vary the price quoted for the Goods in the Seller's published price list and the price of the Goods shall be the price at the date of delivery.

8. Terms of Payment

- 8.1 The Seller shall be entitled to invoice the Customer for all sums due under the Contract on, at or any time after delivery of the Goods.
- 8.2 The Seller shall be entitled to invoice the Customer for all sums due under the Contract on or at any time after delivery of the Goods, in which event the Seller shall be entitled to invoice the Customer for the price at any time after the Seller has tendered delivery of the Goods.
- 8.3 The Customer shall pay all sums due under the Contract within the terms stated in the Sales Order Confirmation. The time of payment of the sums due shall be of the essence of the Contract.
- 8.4 The Customer shall pay the price in full without any discount, deduction, set off or abatement on any grounds whatsoever unless otherwise agreed in Writing by the Seller.
- 8.5 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
 - 8.5.1 Cancel the Contract or suspend any further deliveries to the Customer.
 - 8.5.2 Seized any payment made by the Customer for such Goods (or the good supplied under any other contract between Customer and the Seller) as the Seller may think fit, and
 - 8.5.3 Charge the Customer compound interest (both before and after any judgement) on the amount unpaid, at the rate of 16% per annum until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

9. Delivery

- 9.1 Delivery shall be in accordance with the latest edition of International Chamber of Commerce official rules for the interpretation of trade terms (INCOTERMS) in force at the time when the contract is concluded unless otherwise specifically provided for in this contract.
- 9.2 Delivery of the Goods shall be made to such address as stipulated by the Customer and accepted by the Seller. The customer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery by the Seller and if the Customer shall have failed to make such arrangements the Seller shall leave the Goods at or as near as possible to the address stipulated and delivery shall be deemed to have been properly made by so doing.
- 9.3 Any date given for delivery of the Goods are subject to change and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be the essence unless previously agreed by the Seller in Writing. The Goods may be delivered by the Seller in advance of the estimated delivery date upon giving reasonable notice to the Customer.
- 9.4 The Customer shall in the event of non-delivery of the Goods notify the Seller in Writing within 7 days from the date given by the Seller for delivery.
- 9.5 In the event of short delivery the Seller's liability shall be limited at the Seller's option to make up the delivery or allowing credit in respect thereof.

10. Risk and Title Property

Title in and risk of damage to or loss of the Goods shall pass to the Customer upon delivery thereof in accordance with the agreed delivery term as stated on the Contract.

11. Intellectual Property

- 11.1 The Goods, labels, trademarks, logos, confidential records and other information, supplied by the Seller on the express understanding that all copyright and other intellectual property rights shall vest solely in and remain with the Seller.
- 11.2 The Customer agrees to assist the Seller and to do all such acts and things as the Seller's legal advisors may advise as a necessary or desirable in order to give the Seller the full benefit of the provisions of Clause 11.1 above.

12. Warranties and Liability

- 12.1 The Seller warrants that at the time of delivery the Goods will be of merchantable quality and correspond to the description given by the Seller.
- 12.2 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by status of common law are excluded to the extent permitted by law.
- 12.3 The Seller shall be under no liability in respect of any damage to or defect in the quality or condition of the Goods arising from willful damages, negligence, misuse or alteration of the Goods or failure to show any instructions issued by the Seller (whether oral or in Writing) including those instructions on storage and handling issue from time to time by the Seller a copy of which is available to the Customer from the Seller on application.
- 12.4 As conditions precedent to any claim by the Customer in respect of any damages, defect or loss in respect of the Goods delivered by the Seller, the Customer shall:
- 12.4.1 Inspect the Goods immediately on delivery or as soon as reasonably practicable thereafter and give details of the defect, damage or loss on any carrier's delivery sheet;
- 12.4.2 notify the Seller's Customer Services Department within 48 hours by telephone of the defect, damage or loss;
- 12.4.3 confirm any such claim in Writing to reach the Seller within 3 days of delivery of the Goods in question;
- 12.4.4 keep the Goods in accordance with the instructions of storage handling referred to in the Clause and afford the Seller an opportunity to inspect the Goods in question within a reasonable time following delivery. If delivery is not rejected, and the Customer fail or does not notify the Seller accordingly, the Customer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect, damage or loss and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract; and
- 12.4.5 not dispose of any such Goods without the express permission by the Seller.
- 12.5 When there is any valid claim in respect of any of the Goods is based on any defect in the quality or condition of the Goods and is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the item in question) without additional charges, at the Seller's sole discretion, refund to the Customer the price of the Goods (or a proportionate part of the price), and the Seller shall have no further liability to the Customer.
- 12.6 Except in respect of death of personal injury caused by the Seller's negligence, the Seller shall not be liable to Customer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of anticipated profits, damage to the Customer's reputation or goodwill, loss of expected future business, damages, costs or expenses payable by the Customer to any third party or to any other indirect or consequential loss (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use of resale by the Customer, except as expressly provided in the Conditions.

- 12.7 The Seller's liability (if any) whether in contract, tort or otherwise in respect of any defect in the Goods, or for any breach of the Contract or of any duty owed to the Customer in connection herewith or failure to deliver the Goods, shall be further limited to the value of the defective Goods in question.
- 12.8 The Seller shall not be liable to the Customer or be deemed to be in breach of Contract by reason of any delay in performing, or any failure to perform any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause or circumstances whatsoever beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control.
- 12.8.1 Act of God, explosion, flood, lightning, tempest, fire or accident;
 - 12.8.2 War, hostiles (whether declared or not), sabotage, insurrection, civil disturbance or requisition;
 - 12.8.3 Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority (including refusal or revocation of any license or consent);
 - 12.8.4 Import or export regulations or embargoes;
 - 12.8.5 Theft or malicious damage;
 - 12.8.6 Strikes, lock -outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
 - 12.8.7 Difficulties in obtaining raw materials, labour, fuel, parts or machinery or defaults of suppliers or sub-contractors for any reason whatsoever; or
 - 12.8.8 Power failure or breakdown in machinery

13. Indemnity

The Customer agrees to indemnify the Seller against any damages, losses, costs, claims or expenses incurred by the Seller in respect of any claims brought against the Seller by any third party for:

- 13.1 any loss, injury or damage wholly partly caused by the failure on the part of the Customer to store or handle the Goods in accordance with the Seller's instructions or requirements (whether oral or in Writing);
- 13.2 any loss, injury or damage in any way connected with the performance of this Contract provided in this Clause except for the Seller's own negligence.

14. Storage and Handling

- 14.1 The Customer shall fully comply with any instructions in Writing issued by the Seller in respect of the storage and handling of the Goods and in particular the instructions on storage and handling referred to in clause 12.3 above.
- 14.2 Where Goods are supplied by the Seller with a "best before" or "use by" date, the Customer shall not use such Goods where the "best before" or "use by" date supplied has expired.
- 14.3 The Seller shall have no liability for any Goods sold by the Customer in contravention of this Clause 14.

15. Assignment

The Customer shall not assign or transfer the Contract or any benefit there under without the written consent of the Seller.

16. Notice

Any notice or permission which are to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this Provision to the party giving the notice.

17. Waiver

Failure or neglect by the Seller to enforce at any time any of these Conditions shall not be construed as waiver of the Seller's rights hereunder nor in any way affect the validity of the whole or any part of these Conditions nor prejudice the Seller's right to take subsequent action.

18. Severability

If any provision of these Conditions is held by any competent authority to be unlawful, invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby and shall continue to be valid and enforceable to the full extent permitted by law.

19. Choice of law

These conditions and any contract made incorporating these Conditions shall be governed and construed in accordance with Singapore Law and the Seller and Customer agree to submit to the exclusive jurisdiction of the Singapore Courts in the event of any disputes.

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