

## GENERAL CONDITIONS OF SALE

### BIC Protein B.V.

#### **Article 1**      **Applicability**

- 1.1 These general conditions shall apply to all quotations, offers and agreements of BIC Protein B.V., a private company with limited liability, having its seat in 's Hertogenbosch (The Netherlands) and its office address at 5232 BC, Europalaan 12e in 's-Hertogenbosch (The Netherlands) hereinafter to be referred to as "**BIC Protein B.V.**", in relation to the purchase, sale/supply of goods.
- 1.2 By entering into an agreement with BIC Protein B.V., the other party (hereinafter to be referred to as "**Buyer**") waives the applicability of any conditions used by it, howsoever denominated, so that all agreements with BIC Protein B.V. shall exclusively be governed by the conditions as used by BIC Protein B.V..

#### **Article 2**      **Offers and acceptance**

- 2.1 All quotations and offers issued by BIC Protein B.V. shall be without engagement. An agreement shall not be formed until after written (order) confirmation or factual performance by BIC Protein B.V.. Amendments to assignments shall be binding on BIC Protein B.V. only to the extent confirmed in writing or factually performed by BIC Protein B.V..
- 2.2 Any complaints as to the (order) confirmation shall be submitted to BIC Protein B.V. in writing prior to performance of the agreement by BIC Protein B.V., however in any event within eight days of the date of submission of the (order) confirmation.
- 2.3 Any complaints as to BIC Protein B.V.'s performance of the agreement shall be submitted to BIC Protein B.V. in writing as soon as possible, however within eight days after the date of discovery of a defect in performance, or within eight days after the date at which the defect in the performance should have been discovered, in the absence of which all rights of Buyer vis-à-vis BIC Protein B.V. shall be forfeited.

#### **Article 3**      **Fees, Pricing and VAT registration number**

- 3.1 All prices of BIC Protein B.V. are fixed, specified in Euros and are understood to be exclusive of VAT, unless parties expressly agree otherwise in writing. BIC Protein B.V. is entitled to pass any change to the VAT rate on to Buyer.
- 3.2 Parties are obliged to provide each other with their correct VAT registration number and also notify each other forthwith of any change therein.
- 3.3 If Buyer fails to fulfill the obligation as mentioned in article 3.2, the purchase price shall be automatically increased by adding the VAT and other amounts, which BIC Protein B.V. may demand as a result of such non-fulfillment.
- 3.4 Without prejudice to the rights of suspension and other rights, BIC Protein B.V. shall have the right to suspend all further deliveries until such time as Buyer has fulfilled its obligations mentioned in article 3.2.
- 3.5 If BIC Protein B.V. fails to fulfill the obligation mentioned in article 3.2, BIC Protein B.V. shall pay to Buyer the VAT and other amounts over the delivered goods in so far as these are not payable by Buyer as a result of such non-fulfillment.
- 3.6 After entering into an agreement BIC Protein B.V. is entitled to increase the prices agreed upon in the event, among other things, but not limited to interim increases and/or additional charges on freights, customs tariffs, prices of goods and/or raw materials, taxes, wages or social security charges, interim increases applied by its supplier(s) and changes in the monetary relationships, which result in price increases.
- 3.7 In the event the price as mentioned in article 3.6 will increase as a result of a certain supply amounting more than 25% of the price agreed upon (excluding VAT), Buyer will be entitled to terminate the agreement concerning the future supply, on the condition that Buyer notifies BIC Protein B.V. on this matter in writing by registered mail without delay upon the receipt of the notification stating the said price increase. In that case Buyer will not be entitled to compensation for any reason or any ground whatsoever.

#### **Article 4**      **Delivery**

- 4.1 The goods shall in all cases be delivered at the location which is expressly agreed upon in writing between parties.
- 4.2 The risk for the goods shall pass from BIC Protein B.V. to Buyer in accordance with the terms of FCA (Free Carrier), unless parties expressly agree otherwise in writing.
- 4.3 The terms of delivery are always approximate and shall never be considered as fatal terms, unless parties expressly agree otherwise in writing.
- 4.4 If delivery is offered by BIC Protein B.V., but delivery cannot be carried out by a cause within Buyer's sphere of risk or is refused, the goods are at Buyer's expense and risk after first offering of the goods by BIC Protein B.V.. In that case BIC Protein B.V. is entitled to claim full payment of the agreed price.
- 4.5 BIC Protein B.V. is free in the manner of transport and/or delivery of the goods. Nevertheless, transport and delivery shall at all times be in accordance with the goods concerned.
- 4.6 Buyer shall on first request of BIC Protein B.V. supply BIC Protein B.V. with all information, documentation and/or indications necessary concerning implementation of the agreement. If Buyer does not supply this information, BIC Protein B.V. is entitled to store the goods ordered for account and risk of Buyer and/or to suspend its obligations and to complain against Buyer the suffered damages and costs.
- 4.7 BIC Protein B.V. is entitled to engage third parties in the performance of the agreement, without Buyer's prior consent.

#### **Article 5**      **Payment**

- 5.1 BIC Protein B.V. is entitled to demand payment in advance of Buyer or to demand security for the payment of the goods to be delivered.
- 5.2 If the goods have not been paid in advance as mentioned in article 5.1, the invoice(s) of BIC Protein B.V. shall be paid within 30 days after the date of invoice, unless parties agree expressly otherwise in writing.
- 5.3 In case of any non-payment of due invoices, Buyer is in default without any further given notice. Buyer is - undiminished its remaining obligations - as from the date the payment term has expired until the day of complete payment of the invoice(s), chargeable of the legal interest increased with 3% and raised on annual basis.
- 5.4 In case of any non-payment, all (judicial) processes and execution costs as well as administrative costs and extrajudicial collection costs are at the expense of Buyer. The extrajudicial collection costs will at least amount to 10% of the invoice due, with a minimum of € 150, -.
- 5.5 BIC Protein B.V. is entitled to deduct all debts of Buyer (or of other companies forming part of the same group as Buyer) due and payable for any reason whatsoever, with any possible claims of Buyer against BIC Protein B.V. (or against companies forming part of the same group as BIC Protein B.V.).

#### **Article 6**      **Retention of title**

- 6.1 BIC Protein B.V. supplies all goods subject to retention of title up to the moment of complete payment of the amount(s) due by Buyer, including interests and costs.
- 6.2 As long as BIC Protein B.V. has not received complete payment of Buyer as mentioned in article 6.1, Buyer is not entitled to sell goods to third parties outside the scope of its normal course of business, to transfer the goods in property, to burden the goods and/or to provide third parties with the goods in any way.
- 6.3 If Buyer does fulfill an obligation arising out of the agreement, BIC Protein B.V. has the right to repossess the goods subject to retention of title, without any given previous notice of default or legal mediation. Buyer is obliged to render its complete collaboration, as well as to return goods on first request of BIC Protein B.V..

#### **Article 7**      **Liability and indemnity**

- 7.1 The liability of BIC Protein B.V., its employees and the persons for whom BIC Protein B.V. is responsible and/or liable for damage, including consequential damage, attributable to goods which have not been delivered, not have been delivered in agreed time or delivered in a defective condition, shall be limited to an amount of twice of the net invoice of the goods.
- 7.2 BIC Protein B.V. shall never be liable for consequential damages, to be defined as loss of turnover, loss of profit and loss of goodwill.
- 7.3 BIC Protein B.V. shall never be liable for any damages resulting from services and/or goods which BIC Protein B.V. has acquired from a third party, except to the extent that the damages are covered by a warranty given by such third party to BIC Protein B.V.. In such case, the liability of BIC Protein B.V. will in all events be limited to the extent of the warranty granted by the related third party.
- 7.4 Buyer shall indemnify BIC Protein B.V. against any liability to third parties arising out of its assignment, as well as any liability to third parties with regard to the use or the inability of the goods.

#### **Article 8**      **Force majeure**

- 8.1 If, at the sole discretion of BIC Protein B.V., performance by BIC Protein B.V. is or will be impossible due to force majeure, meaning circumstances beyond its control, it shall be entitled to terminate all or part of the agreement, or to suspend performance of the agreement temporarily, without any obligation to pay damages.
- 8.2 Force majeure shall include, but not be limited to, war, revolution, riots, fire, weather conditions, flooding, transport restrictions, illness, strikes, government measures including import and export restrictions, crop failure, disruption in the supply or provisions of raw materials, energy or required operating resources and otherwise all circumstances under which, according to the principles of reasonableness and fairness, BIC Protein B.V. cannot be required to perform all or part of the agreement.
- 8.3 In the event that upon occurrence of the situation of force majeure BIC Protein B.V. has already performed a part of its obligations, it may invoice the part performed or the part it will be able to perform separately and Buyer shall pay such invoice as with regard to a separate contract.

#### **Article 9**      **Termination**

- 9.1 Without any obligation to pay damages, BIC Protein B.V. may terminate all or part of its agreement with Buyer with immediate effect, by registered letter and without any judicial intervention being required, in the event that:
- Buyer files a moratorium on payment of its debts or bankruptcy or is declared bankrupt or offers its creditors a composition outside bankruptcy;
  - Buyer ceases its activities, resolves to wind up its company or otherwise loses its legal personality or transfers or merges its business;
  - Buyer fails to perform any of its obligations arising out of the agreement properly, or fails to perform any such obligations in good time, and fails to cure such default after the date of seven calendar days of written summons by BIC Protein B.V.;
  - Any of its assets are attached and the attachment is not lifted within fourteen days.

- 9.2 The provisions of article 9.1 shall not affect BIC Protein B.V.'s other legal rights in the event of non-performance by Buyer, such as the right to claim performance and/or payment of full damages.

#### **Article 10 Disputes and applicable law**

- 10.1 Any dispute with regard to the agreement(s) entered into by BIC Protein B.V. will be brought to the arbitration institute NOFOTA, (Netherlands Oils, Fats and Oilseeds Trade Association), located in Rotterdam, The Netherlands. The regulations of NOFOTA Trading Rules, chapter XIII are applicable.
- 10.2 All agreements entered into with BIC Protein B.V. shall be governed by the laws of The Netherlands. The applicability of the United Nations Conventions on contracts for the International sale of goods is excluded.

#### **Article 11 Miscellaneous**

- 11.1 Only variations or modifications to the agreement which are made in writing signed by BIC Protein B.V. and Buyer shall be applicable.
- 11.2 In the event any provision or part of a provision of these terms is found to be illegal, invalid or inapplicable under any applicable law, such provision or part of a provision shall, insofar as it is severable from the remaining terms, be deemed omitted from these terms and shall in no way affect the legality, validity or enforceability of the remaining terms.