

## **GENERAL TERMS AND CONDITIONS SOLINA FUTURE FOOD RESEARCH CENTER**

### **Article 1. Definitions**

- **Business Day:** a day other than a Saturday, Sunday or public holiday in Belgium, when banks in Brussels are open for business.
- **Clause:** a clause to these Conditions.
- **Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with Clause 13.4.
- **Contract:** the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.
- **Customer:** the natural or legal person acting for professional purposes who purchases the Goods from the Supplier.
- **Delivery Date:** the estimated date for delivery of the Goods specified in the Supplier's written acceptance of an Order.
- **Delivery Location:** the location for delivery of the Goods specified in the Order or such other location as the parties may agree upon.
- **Force Majeure Event:** any circumstance not in a party's reasonable control, including, but not limited to, (i) acts of God, flood, drought, earthquake or other natural disaster; (ii) epidemic or pandemic; (iii) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (iv) nuclear, chemical or biological contamination or sonic boom; (v) any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition; (vi) collapse of buildings, fire, explosion or accident; (vii) any labour or trade dispute, strikes, industrial action or lockouts; (viii) non-performance by suppliers or subcontractors; and (ix) interruption or failure of utility service.
- **Goods:** the goods (or any part of them) set out in the Order.
- **Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- **Order:** the Customer's order for the Goods.
- **Specification:** any specification for the Goods, including any related recipe or formula, that is agreed in writing by the Customer and the Supplier.
- **Supplier:** SOLINA FUTURE FOOD RESEARCH CENTER, a limited company ("*naamloze vennootschap*") incorporated under the laws of Belgium, with offices at INDUSTRIESTRASSE 21 in 4700 EUPEN (Belgium) and registered with the Crossroads Bank for Enterprises under number 0729.676.659 (RLE Eupen).

### **Article 2. Basis of contract**

**2.1** These Conditions apply to each quotation for the Goods, each Order and each Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate (even if these terms state otherwise), or which are implied by law, trade custom, practice or course of dealing. In case of any conflict, discrepancy, inconsistency, contradiction or ambiguity between any provision of these Conditions and a written Contract, the provisions of the written Contract shall prevail.

**2.2** These Conditions are available in Dutch, German, French and English on the website [www.solina.com](http://www.solina.com).

**2.3** The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.

**2.4** The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.

**2.5** The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any document of the Customer that is inconsistent with these Conditions.

**2.6** Any samples or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.

**2.7** A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of one (1) month from its date of issue.

### **Article 3. Goods**

**3.1** The Goods are described in the Supplier's catalogue and/or any applicable Specification.

**3.2** To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This Clause 3.2 shall survive termination of the Contract.

**3.3** The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

### **Article 4. Delivery**

**4.1** The Supplier shall ensure that (a) each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, the type and quantity of the Goods (including the code numbers of the Goods, where applicable), special storage instructions (if any); and (b) if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Customer's expense.

**4.2** Unless otherwise agreed between the parties, the Supplier shall deliver the Goods to the Delivery Location by the Delivery Date.

**4.3** Unless otherwise agreed between the parties, delivery of an Order shall be completed on its arrival at the Delivery Location. The Customer shall be responsible for the unloading of the Goods on arrival at the Delivery Location and shall be liable for any loss or damage to the Goods caused during unloading.

**4.4** Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Delays in the delivery of the Goods shall not entitle the Customer to (a) refuse to take delivery of the Goods; (b) claim damages; or (c) terminate the Contract. The Supplier shall have no liability for any failure or delay in delivering the Goods to the extent that any such failure or delay is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

**4.5** If the Customer fails to take delivery of the Goods on Delivery Date, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract in respect of the Goods, (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the Delivery Date; and (b) the Supplier shall store the Goods until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

**4.6** If ten (10) Business Days after the Delivery Date, the Customer has not taken actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and charge the Customer for any shortfall below the price of the Goods.

**4.7** If the Supplier delivers up to and including five (5) % more or less than the quantity of the Goods ordered, the Customer may not reject them.

**4.8** The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

### **Article 5. Quality**

**5.1** The Goods supplied to the Customer shall conform with their description and any applicable Specification. The Supplier does not provide the Customer with any other warranties in respect to the Goods and in particular does not warrant that the Goods shall be fit for any (specific) purpose held out by the Customer.

**5.2** The Customer may reject any Goods delivered to it that do not comply with Clause 5.1, provided that (a) none of the events listed in Clause 5.4 apply; and (b) the Customer gives written notice of rejection to the Supplier. In the case of a defect that is apparent on normal visual inspection, the Customer gives written notice of rejection to the Supplier within two (2) Business Days of delivery. In the case of a latent defect, the Customer gives written notice of rejection to the Supplier within two (2) Business Days of the latent defect having become apparent. The Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost.

**5.3** If the Customer fails to give written notice of rejection in accordance with Clause 5.1, the Customer shall be deemed to have accepted the Goods.

**5.4** The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in Clause 5.1 if (a) the Customer makes any further use of those Goods after giving notice in accordance with Clause 5.2; (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions for the storage or use of the Goods or (if there are none) good trade practice regarding the same; (c) the defect arises as a result of the Supplier following any Specification supplied by the Customer; (d) the Customer alters those Goods without the written consent of the Supplier; (e) the defect arises as a result of fair wear and tear, wilful damage, negligence or abnormal storage or working conditions; or (f) the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

**5.5** If the Customer rejects the Goods according to Clause 5.2 and the Customer's complaint is well-founded in the Supplier's opinion, then the Customer shall be entitled to (a) require the Supplier to replace the rejected Goods; or (b) require the Supplier to repay the price of the rejected Goods in full.

**5.6** Except as provided in this Clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in Clause 5.1.

**5.7** These Conditions shall apply to any replacement Goods supplied by the Supplier.

#### **Article 6. Title and risk**

Risk in, and title to, the Goods shall pass to the Customer on completion of delivery.

#### **Article 7. Product recall**

**7.1** The Supplier may at any time recall or withdraw any Goods from the market by given written notice to the Customer.

**7.2** The Customer shall immediately upon receipt of the written recall notice of the Supplier act in strict compliance with the Supplier's instruction about the process of implementing the recall and cease to resell and use the Goods (if asked to do so by the Supplier).

#### **Article 8. Price and payment**

**8.1** The price of the Goods shall be the price set out in the Supplier's written acceptance of the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date of delivery.

**8.2** The Supplier may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or (c) any delay caused by any instruction of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

**8.3** The price of the Goods (a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and (b) excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

**8.4** Unless otherwise agreed between the parties, the Supplier shall invoice the Customer for the Goods on or after the completion of delivery. The Supplier may at any time require the Customer to pay for the Goods prior to delivery and refuse delivery of the Goods until such payment is received.

**8.5** The Customer shall pay each invoice submitted by the Supplier in full and in cleared funds within thirty (30) calendar days of the date of the invoice (or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer). Payment shall be made to the bank account nominated in writing by the Supplier. Time for payment shall be of the essence for the Contract.

**8.6** If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under Clause 10, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 8.6 will accrue each day at the legal interest rate of the Belgian Act of 2 August 2002 on late payment interests in commercial transactions (as amended from time to time). In addition, the Customer shall pay liquidated damages to the Supplier equal to ten (10) % of the overdue sum, with a minimum of EUR 250,00. These damages are intended to cover, among others, the Supplier's costs to recover the overdue sum.

**8.7** If the Customer disputes any invoice, the Customer shall immediately, and in any case not later than fourteen (14) calendar days of the invoice date, notify the Supplier in writing. The Customer provides the Supplier with the reasons for the dispute and any evidence as may be reasonably necessary to support the dispute. Beyond the deadline as set out in this Clause 8.7, the invoice shall be deemed to have been accepted by the Customer. Where only part of an invoice is disputed, the undisputed amount shall be paid by the Customer on the due date as set out in Clause 8.5.

**8.8** All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

### **Article 9. Limitation of liability**

**9.1** References to liability in this Clause 9 include every kind of liability arising under or in connection with the Contract, including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

**9.2** Nothing in the Contract excludes or limits any liability which cannot legally be excluded or limited, including liability for (a) death or personal injury caused by fault; (b) fraud or fraudulent misrepresentation; or (c) deliberate default.

**9.3** The Supplier shall only be liable to the Customer for the Customer's direct loss resulting from its deliberate default (or the deliberate default of its directors, employees, officers, representatives, contractors, subcontractors and advisers).

**9.4** Subject to Clause 9.2, the Supplier's total liability to the Customer in respect of a breach shall not exceed ten (10) % of the total sums effectively paid by the Customer under the Contract during the past six (6) months preceding the breach.

**9.5** Subject to Clause 9.2, the following types of loss are wholly excluded (a) loss of profits; (b) loss of sales or business; (c) loss of agreements or contracts; (d) loss of anticipated savings; (e) loss of use or corruption of software, data or information; (f) loss of or damage to goodwill; and (g) indirect or consequential loss.

**9.6** To the maximum extent permitted under applicable law, the Customer agrees, and accepts, not to hold the directors, employees, officers, representatives and advisers of the Supplier personally liable for or in connection with the Contract. Any (liability) claim for or in connection with the Contract shall be brought by the Customer exclusively against the Supplier.

**9.7** This Clause 9 shall survive termination of the Contract.

### **Article 10. Termination**

**10.1** Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect, without court intervention and without notice or payment of any compensation, by giving written notice to the Customer if (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within fourteen (14) calendar days of the Customer being notified in writing to do so; (b) the Customer takes any step or action in connection with its entering administration (insolvency), provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or (d) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

**10.2** Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier (without court intervention) if the Customer becomes subject to any of the events listed in Clause 10.1(b) to Clause 10.1(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

**10.3** Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect, without court intervention and without notice or payment of any compensation, by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

**10.4** In any case of early termination in accordance with Clause 10.1 or 10.3 (or by mutual agreement between the parties), the price for the Goods remains due (even in respect of Goods not yet supplied to the Customer) by way of compensation to the Supplier.

**10.5** On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.

**10.6** Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

**10.7** Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

### **Article 11. Intellectual property**

The Supplier is and remains the sole and exclusive proprietary of all Intellectual Property Rights related to the Goods (including any improvements, new versions, developments, enhancements, modifications or derivatives of the Goods). Nothing in these Conditions shall be deemed as an implied or express assignment of, or the granting of a license to, the Supplier's Intellectual Property Rights to the Customer.

### **Article 12. Force Majeure**

The Supplier shall not be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations under the Contract if such delay or failure results from a Force Majeure Event. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for sixty (60) calendar days, either party may terminate the Contract by giving thirty (30) calendar days' written notice to the other party.

### **Article 13. General**

**13.1 Assignment and other dealings.** The Supplier may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract. The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

**13.2 Confidentiality.** The Customer undertakes that it shall not at any time during the Contract and for a period of two (2) years after termination of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the Supplier, except as permitted by this Clause 13.2. The Customer may disclose the Supplier's confidential information (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the Customer's rights or carrying out its obligations under the Contract (provided that the Customer ensures that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the Supplier's confidential information comply with this Clause 13.2); and (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. The Customer shall not use the Supplier's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

**13.3 Entire agreement.** The Contract constitutes the entire agreement between the parties. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

**13.4 Variation.** The Supplier may vary these Conditions at any time. Such variation shall be binding on the Customer upon written notice to the Customer unless the Customer disputes the variation in writing within fourteen (14) calendar days of the Supplier's notice.

**13.5 Waiver.** Except as set out in Clause 2.5, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

**13.6 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part-provision of the Contract is deemed deleted under this Clause 13.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

**13.7 Notices.** Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand, post or by registered mail at its (registered) office (or an address substituted in writing by the party to be served). Any notice shall be deemed to have been received (a) if delivered by hand, at the time the notice is left at the proper address; and (b) if sent by post or registered mail, at 9.00 am on the third (3rd) Business Day after posting, unless proof of earlier receipt can be provided.

**13.8 Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract, its subject matter or formation, shall be governed by and construed in accordance with the laws of Belgium.

**13.9 Jurisdiction.** Each party irrevocably agrees that the courts of Ghent, section Ghent shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract, its subject matter or formation.