

Standard Terms and Conditions for Sale of Goods IREKS U.K. Ltd., Bakery Ingredients Division

1. **Definitions and interpretation**
The definitions and interpretative provisions in **Schedule 1** apply to these conditions.
2. **Application of terms and conditions**
 - 2.1 Subject to any variation under condition 2.3 the Contract is made on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).
 - 2.2 No terms or conditions endorsed upon, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document form part of the Contract simply as a result of any such document being referred to in the Contract.
 - 2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods have no effect unless expressly confirmed by the Company in writing. In entering into the Contract the Buyer acknowledges that it does not rely on such representations which are not so confirmed.
 - 2.4 Each order for Goods by the Buyer from the Company is deemed to be an offer by the Buyer to purchase Goods subject to these conditions.
 - 2.5 No order placed by the Buyer is deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.
 - 2.6 The Buyer must ensure that the terms of its order and any applicable specification are complete and accurate.
 - 2.7 Any quotation is given on the basis that no Contract comes into existence until the Company despatches an acknowledgement of order to the Buyer. Any quotation is valid for a period of 30 days only from its date (subject to no material increase in raw material prices) unless the Company withdraws it.
 - 2.8 Any advice or recommendation given by the Company or its employees or agents to the Buyer or its employees or agents as to the storage or use of the Goods which is not confirmed in writing by the Company is followed or acted upon entirely at the Buyer's own risk. Accordingly the Company is not liable for any such advice or recommendation which is not so confirmed.
 - 2.9 The Buyer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Buyer that is inconsistent with these Conditions
3. **Description**
 - 3.1 The description of the Goods is as set out in the Company's quotation.
 - 3.2 All drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They do not form part of the Contract.
 - 3.3 The Company reserves the right to amend any specifications for the Goods if required by any applicable statutory or regulatory requirement, and the Company shall notify the Buyer accordingly
4. **Delivery**
 - 4.1 Unless otherwise agreed in writing by the Company, delivery of the Goods is free house (CIP) (Incoterms 2020) within the United Kingdom.. If so requested by the Buyer, the Company may agree to deliver the Goods to an address specified by the Buyer at the Buyer's expense. Unless otherwise agreed in writing by the Company, the Company will at its discretion determine the manner (in particular the transport company), the dispatch route and the packaging of the Goods to be delivered. Delivery of the Goods shall be completed on the completion of unloading of the Goods at the location set out in the Buyer's written order confirmation or such other delivery location as the parties may agree (Delivery Location).
- 4.2 Any dates specified by the Company for delivery of the Goods are intended to be estimated and time for delivery must not be made of the essence by notice. If no dates are specified, delivery will be made within a reasonable time.
- 4.3 Subject to these conditions the Company is not liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, loss of profits, loss of business and depletion of goodwill), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence).
- 4.4 Delay in the delivery of the Goods does not entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 30 days.
5. **Non delivery**
 - 5.1 The quantity of any consignment of Goods as recorded by the Company upon delivery is deemed to be the quantity received by the Buyer on delivery unless the Buyer provides conclusive evidence proving the contrary within 7 days of receipt of the Goods.
 - 5.2 The Company is not liable for any non delivery of Goods (even if caused by the Company's negligence) unless written notice is given to the Company within 7 days after the date and time when the Goods should, in the ordinary course of events, have been received.
 - 5.3 Any liability of the Company for non delivery of Goods is limited (at the Company's sole discretion) to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.
 - 5.4 If the Customer fails to take or accept delivery of the Goods when the Goods are tendered for delivery at the Delivery Location, except where such failure or delay is caused by an event beyond the reasonable control of the Buyer or by the Company's failure to comply with its obligations under the Contract in respect of the Goods, then delivery of the Goods shall be deemed to have been completed and the Company may store the Goods until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
 - 5.5 If the Customer has not accepted actual delivery of the Goods when they were tendered for delivery by the Company and/or by the Company's agents or sub-contractors, the Company may (at its reasonable discretion) resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
 - 5.6 The Company 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 Buyer to cancel any other instalment.
6. **Risk/title**
 - 6.1 The Goods are at the risk of the Buyer from the time of delivery except where the Goods are delivered to an address specified by the Buyer, in which case the Goods are at the risk of the Buyer from the time the Goods are handed over to the carrier.

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- 6.2 Ownership of the Goods does not pass to the Buyer until the Company receives in full (in cash or cleared funds) all sums due to it in respect of:
- 6.2.1 the Goods; and
- 6.2.2 all other sums which are or become due to the Company from the Buyer on any account.
- 6.3 Until ownership of the Goods passes to the Buyer, the Buyer must:
- 6.3.1 hold the Goods on a fiduciary basis as the Company's bailee;
- 6.3.2 store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
- 6.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- 6.3.4 maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer must produce the policy of insurance to the Company.
- 6.3.5 give the Company such information as the Company may reasonably require from time to time relating to:
- 6.3.5.1 the Goods; and
- 6.3.5.2 the ongoing financial position of the buyer
- 6.4 The Buyer may resell the Goods before ownership passes to it solely on the basis that any sale is effected in the ordinary course of the Buyer's business at full market value. If the Buyer resells the Goods in such a way prior ownership passing to the Buyer, he does so as principal and not as the Buyer's agent and title to the Goods shall pass to the Buyer immediately before the time at which resale by the Buyer occurs
- 6.5 The Buyer's right to possession of the Goods terminates immediately if:
- 6.5.1 the Buyer convenes a meeting of its creditors (whether formal or informal);
- 6.5.2 the Buyer enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation;
- 6.5.3 the Buyer has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part of it;
- 6.5.4 documents are filed with the court for the appointment of an administrator of the Buyer;
- 6.5.5 notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of schedule B1 to the Insolvency Act 1986);
- 6.5.6 a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer;
- 6.5.7 any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
- 6.5.8 the Buyer is unable to pay its debts within the meaning of section 123 Insolvency Act 1986 or ceases to trade.
- 6.6 The Company may recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed to the Buyer.
- 6.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.
- 7. Price**
The price for the Goods is that which is set out in the Contract and is exclusive of any Value Added Tax.
- 8. Payment**
- 8.1 Payment of the price for the Goods is due within 30 days of delivery in full and in cleared funds to a bank account nominated in writing by the Company.
- 8.2 Time for payment is of the essence.
- 8.3 No payment is deemed to have been received until the Company receives cleared funds.
- 8.4 The Buyer must make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount or otherwise.
- 8.5 If the Buyer does not pay the Company any sum due under the Contract the Buyer must pay interest to the Company on that sum from the due date for payment at the annual rate of 5 % above the Bank of England base rate from time to time. Interest accrues on a daily basis until payment is made, whether before or after any judgment.
- 9. Quality**
- 9.1 The Company warrants that (subject to conditions 9.2 to 9.7, inclusive) upon receipt of the Goods and for a maximum period equivalent to the "best before date" marked on each product ingredient, the Goods will be of satisfactory quality within the meaning of the Sale of Goods Act 1994.
- 9.2 The Buyer undertakes to examine the Goods upon receipt, if necessary by a test examination, to check whether the Goods are free of defects and suitable for their intended use (including their mixing with other products not supplied by the Company).
- 9.3 The Company is not liable for a breach of the warranty in condition 9.1 unless:
- 9.3.1 in the case of obvious or patent defects, the Buyer gives written notice of the defective Goods to the Company within 7 days of receipt of the Goods; and
- 9.3.2 in the case of latent defects, the Buyer gives written notice of the defective Goods to the Company within 8 days of discovery of such defects but in any event not later than three months after receipt of the Goods by the Buyer; and
- 9.3.3 the Company is given a reasonable opportunity after receiving such written notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Company's cost for the examination to take place there.
- 9.4 The Company is not liable for a breach of the warranty in condition 9.1 if the defect arises because the Buyer failed to follow the Company's written instructions as to the storage or use of the Goods.
- 9.5 If the Buyer discovers any defects in the Goods during the manufacturing process, it shall immediately cease such manufacturing and secure the Goods which have not yet been processed in their original packaging which shall be made available for inspection by the Company.
- 9.6 Subject to conditions 9.2 to 9.5, if any of the Goods do not conform with the warranty in condition 9.1 the Company will, at its option, make good any defect in the Goods or replace them or refund the price of those Goods at the pro rata Contract rate.
- 9.7 If the Company complies with condition 9.6 it shall have no further liability for a breach of the warranty in condition 9.1 in respect of any defective Goods.

10. Limitation of liability

10.1 Subject to condition 9, the following provisions of this condition 10 set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Buyer in respect of:

10.1.1 any breach of these conditions; and

10.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law (except the conditions implied by section 12 Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.

10.4 Subject to conditions 10.2 and 10.3:

10.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract is limited to the price specified in the Contract; and

10.4.2 the Company is not liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise (in each case whether direct, indirect or consequential) or any claims for consequential compensation whatsoever and however caused which arise out of or in connection with the Contract.

11. Buyer's warranties and indemnity

11.1 The Buyer warrants that:

11.1.1 it will store the Goods under conditions appropriate to the specific Goods and in compliance with all UK food and hygiene laws and regulations;

11.1.2 it will comply with all UK health and safety laws and regulations relevant to the Goods; and

11.1.3 it will comply with all UK labelling laws and regulations relevant to the Goods.

11.2 The Buyer hereby indemnifies the Company in respect of any breach by it of any of the warranties set out in Condition 11.1.

12. Training

In the event that the Company provides the Buyer, its employees, contractors or agents with any training relating to baking, the Company shall have no responsibility whatsoever for any losses or damage caused to the Buyer, its employees, contractors or agents during or as a result of such training.

13. Assignment

13.1 The Buyer may not assign the Contract or any part of it without the prior written consent of the Company.

13.2 The Company may assign the Contract or any part of it to any person.

14. Force majeure

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the quantity of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company. Such circumstances include, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to

either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials. If the event in question continues for a continuous period in excess of 60 days, the Buyer may give notice in writing to the Company to terminate the Contract.

15. General

15.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

15.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it will to the extent of the illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision will continue in full force and effect.

15.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract. 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.

15.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

15.5 The Company and the Buyer do not intend that any term of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

15.6 The formation, existence, construction, performance, validity and all aspects of the Contract will be governed by English law and the parties submit to the non exclusive jurisdiction of the English courts.

16. Communications

16.1 All communications between the Company and the Buyer about the Contract must be in writing and delivered by hand or sent by email or by prepaid first class post or by facsimile transmission to either party's email address or principal place of business or facsimile number or such changed address or number as is notified to either party by the other.

16.2 Communications will be deemed to have been received:

16.2.1 if sent by email at the time stated on the emails;

16.2.2 if sent by prepaid first class post, two clear Business Days after the date of posting;

16.2.3 if delivered by hand, on the day of delivery; or

16.2.4 if sent by facsimile transmission, at the completion of transmission during business hours at its destination or, if not within business hours, at the opening of the next period of business hours. For this purpose business hours means between 9.00 a.m. and 5.00 p.m. on a Business Day.

Schedule 1

Definitions and interpretation

1. The following words have the following meanings:

Business Day

a day between Monday and Friday, inclusive, on which clearing banks in the City of London are open for business to the public.

Buyer

the person who purchases the Goods from the Company.

Company

IREKS U.K. Limited (company number 2252955) whose registered office is at 16 Great Queen Street, Covent Garden, London WC2 5AH.

Contract

any contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these conditions.

Goods

any goods, including replacements, agreed in the Contract to be supplied to the Buyer by the Company.

Delivery Location

The address as defined in clause 4.1

2. References to any statute or statutory provision will, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced. A reference to any statute or a statutory provision includes all subordinate statute made under that statute or statutory provision.
3. Use of the singular includes the plural and vice versa.
4. Use of any gender includes the other genders.
5. The index and headings are included for convenience only and do not affect the construction of these conditions.
6. Any reference to persons includes natural persons, partners, partnerships, companies, corporations, associations, organisations, governments, states, foundations and trusts (in each case whether or not having separate legal personality).
7. A reference to a party includes its personal representatives, successors and permitted assigns.
8. Any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.