

GENERAL TERMS AND CONDITIONS

of

WIBERG GmbH
Eichendorffstraße 25
83395 Freilassing
Germany
HRB 162

hereinafter referred to as "WIBERG".

1. Validity

These General Terms and Conditions apply to all present and future supplies and services provided to the Purchaser by WIBERG, even if these supplies or other services from WIBERG are provided without the use of or express reference to these General Terms and Conditions.

The Purchaser acknowledges and accepts these General Terms and Conditions when he places an order, or at the latest on receipt of the goods. Any agreement to the contrary requires consent in writing from WIBERG.

Any terms of the Purchaser's contract contrary to these General Terms and Conditions shall be expressly rejected. Even the sending of an order confirmation by WIBERG does not imply acknowledgement of the Purchaser's contractual terms by WIBERG.

2. Conclusion of the contract

Quotations from WIBERG are subject to confirmation. Orders placed by the Purchaser are not accepted until confirmed in writing by WIBERG or until delivery is made or the service is performed.

The information and illustrations included in brochures and similar documents or supplied with a quotation are only binding if there is express indication to that effect. Where an item supplied shows slight variations from the description in the quotation these are deemed to be approved and do not affect the fulfilment of the contract provided the deviation in question seems reasonable to the Purchaser. This applies in particular where modifications and improvements are made in the interest of technological progress.

3. Prices

The prices shown in the price lists are subject to confirmation. The prices as shown in WIBERG's price lists in effect on the date of the conclusion of the contract between the parties shall apply. Should WIBERG's price lists be changed between the conclusion of the contract and delivery then the Customer must pay the revised amount. However, should prices increase by more than 10% between the conclusion of the contract and delivery then the Customer shall be entitled to withdraw from the contract.

4. Billing and payment terms

WIBERG issues invoices exclusively in Euros. Payment of WIBERG's invoices is due within ten days net from the billing date. Purchasers from other EU member states must notify WIBERG of any UID number at the time of ordering at the latest.

In the event of late payment WIBERG shall charge interest on arrears at the current rate of interest on arrears charged by banks, which will however be at least 10% p.a. The Purchaser shall be responsible for any collection, encashment or other charges in connection with the recovery of the amounts owed.

If a Purchaser falls behind with a payment that is due, or if a cheque issued by him or an acceptance cannot be cashed or if foreclosure measures are introduced against a not insignificant proportion of his assets, or if for any other reason considerable doubt should arise as to the Purchaser's ability or willingness to pay, then WIBERG shall be entitled to demand immediate payment of all outstanding invoices, even if cheques or bills of exchange have already been sent, as well as to demand advance payment for any deliveries still outstanding or, subject to any other rights which WIBERG is entitled to under the contract, to postpone such deliveries to an appropriate later date. The Purchaser can avoid the assertion of these rights by providing some form of security acceptable to WIBERG.

All payments shall be made free of charges and without deductions and in particular the Purchaser shall be responsible for the payment of all transfer, cheque and bill of exchange charges as well as all other deductions. Even if claims are made concerning defects, or counterclaims are asserted, the Purchaser is only entitled to set these off against his account, or withhold payment or pay a reduced amount if these counterclaims have been established in law or are undisputed. Payments may only be made to WIBERG or to designated representatives of the delivery firm with an authority to collect issued by WIBERG. Payment is not deemed to have been made until the amount in question has been credited to WIBERG's bank account or has been received at WIBERG's premises. Payments will always be credited first against charges (collection fees, processing costs), then against interest charges and finally against capital and this always against the oldest debt. Any instructions to the contrary from the debtor shall be null and void. Due to WIBERG's automated data processing system, it is not possible for any written notes made by the Purchaser on payment slips or giro transfer forms to be heeded and as such they will be disregarded.

Bills of exchange and cheques will always only be accepted as payment. Cash discount deductions cannot be



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made for payment by bill of exchange. WIBERG may refuse payments made by cheque or bill of exchange without giving any reason.

5. Cession ban

A transfer of any claims of the Purchaser against WIBERG is inadmissible.

In so far as purchase price claims or claims for additional costs (e.g. interest on arrears or recovery costs) remain unsettled, a transfer of claims that the Purchaser has towards his customers because of the resale of goods supplied by WIBERG is not admissible.

6. Delivery and transfer of risks

WIBERG has the right to make part deliveries unless there is an agreement to the contrary in writing. Each part delivery counts as a separate transaction and may be invoiced separately by WIBERG. An excess or short delivery of up to 5% of the quantity of spices and functional ingredients is deemed to meet the terms of the contract.

The transfer of risks takes place in individual cases according to the INCOTERMS agreed. If no agreement exists in this regard, then the risk is transferred to the Purchaser as soon as the consignment has been handed over to the person responsible for transportation or has left the WIBERG warehouse for the purpose of shipping. If shipping is delayed at the request of the Purchaser, the risk shall be transferred to him when notification is given that the goods are ready to be dispatched.

WIBERG does not accept any responsibility and is not liable for transportation or for the selection of the persons involved in it.

The risk is in any case transferred when the goods are dispatched to the Purchaser, even if carriage free delivery has been agreed. If there is a delay in dispatching the goods for reasons attributable to the customer or his vicarious agents, then the risk shall be transferred to the Purchaser when the goods are made available for dispatch. If there is a delay in acceptance of the goods, the Purchaser – unless any other rights are due to him – shall be obliged to pay interest on storage.

If ex works (EXW) is agreed, then WIBERG shall make support staff available for fast loading, in particular cases, on Purchaser's request. Deployment of support staff shall be free of charge, and at the risk of the Purchaser.

Information given regarding delivery dates is non-binding. If WIBERG fails to observe delivery dates, the Purchaser shall only be entitled to assert the legal rights due to him if WIBERG does not provide the delivery or service even after an appropriate period of grace has been set in writing. The delivery date shall be extended by the duration of the hindrance due to all circumstances not included in the intention of the parties, such as, for example, late delivery by any suppliers, incidents of force majeure, action by the authorities, transport or customs clearance delays, damage in transit, shortage of power or raw materials and industrial disputes. If delivery periods and delivery dates have not been agreed in writing then WIBERG shall not accept any responsibility or liability for adhering to them.

7. Retention of title

Until all claims for payment that WIBERG is entitled to out of any cause in law against the Purchaser, either now or in the future, have been met (including all open item account balance claims), the following securities shall be granted to WIBERG, which WIBERG shall release on demand (as it chooses), provided their value permanently exceeds that of the claims by over 20%.

The goods shall remain the property of WIBERG. If WIBERG's (joint) ownership is cancelled through incorporation then it is agreed here and now that the Purchaser's (joint) ownership of the single item should be transferred in proportion to its value (invoice value). The Purchaser shall keep safe the (joint) property of WIBERG free of charge. Goods to which WIBERG is entitled to (joint) ownership are hereinafter called reserved goods.

The Purchaser is entitled to process the reserved goods in the course of his normal business and to dispose of them provided he is not in arrears. Pledging of goods or transfers by way of security are not admissible. The Purchaser here and now surrenders the claims (including all open item account balance claims) arising out of the resale or any other cause in law with regard to the reserved goods (insurance, unlawful act) to WIBERG in their full extent. WIBERG gives the Purchaser the authority, which may be withdrawn, to call in the claims surrendered to WIBERG for accounting in his own name. This authority to collect may only be withdrawn if the Purchaser does not fulfil his payment obligations accordingly.

If the reserved goods are seized by a third party, in particular in the case of garnishments, the Purchaser shall point out that WIBERG is the owner and shall inform WIBERG immediately so that it can assert its rights of ownership. Where the third party is not in a position to reimburse WIBERG for the legal or out of court expenses incurred, this shall be the responsibility of the Purchaser.

If the Purchaser should act in a manner contrary to the contract – in particular with regard to late payment – WIBERG shall be entitled to withdraw from the contract and to demand the return of the reserved goods.

The Purchaser shall undertake to insure the reserved goods according to the principles of a reasonable businessman and shall also undertake to provide the appropriate evidence on request. The Purchaser here and now surrenders to WIBERG any entitlement to make insurance claims or claims for compensation for the loss or deterioration of the reserved goods and WIBERG accepts the transfer.

8. Guarantee

The products from WIBERG are supplied free of manufacturing and material defects; the period for asserting claims for defects is normally one year from the delivery of the products. An exception to this is that the guarantee period corresponds to storage life of the goods up until the best before date. WIBERG guarantees that the condition of the goods shall be as agreed when they are handed over to the person responsible for transportation. If WIBERG's instructions for use are not followed, if modifications are made to the products, if changes are made to the dosages recommended by WIBERG, or if the products are used in a way that deviates from the original specifications, then any claims on the grounds of defects in the products shall no longer apply if the Purchaser does not refute an appropriately substantiated claim that it was primarily one of these

circumstances that caused the defect. If the Purchaser commissions WIBERG to manufacture mixtures or recipes originating from the Purchaser himself, then WIBERG shall not accept any liability for the usability intended by the Purchaser.

The Purchaser must provide WIBERG with written notification of any defects immediately, or at the latest within five days of receipt of the delivery item. WIBERG must be informed immediately of any defects discovered that were unable to be detected even by careful inspection within this period, or at the latest within five days of the detection of the defect.

If the Purchaser notifies WIBERG of a defect within the appropriate period then WIBERG may, if it chooses and at its own expense, ask that

- the goods be sent to WIBERG for the purpose of inspection and if need be for rectification of defects and return;
- the Purchaser hold the goods ready for WIBERG to send one or more of its staff to the Purchaser's premises in order to inspect the goods.

If a rectification of defects is not possible or if this should fail after a suitable period of time, the Purchaser may, if he chooses, demand a price reduction or that the goods be exchanged.

9. Liability and compensation

Claims for compensation are excluded, independent of the type of breach of duty, including unlawful acts, provided there is no question of intentional or grossly negligent action.

Where important contractual obligations are breached WIBERG shall be liable for any negligence, but only to the value of the foreseeable damages. Claims cannot be made for loss of profits, expenditure saved from compensation claims of third parties, or for any other direct or consequential loss, unless WIBERG has guaranteed a particular quality characteristic of the product with the purpose of safeguarding the Purchaser against such losses.

The liability restrictions and exclusions in paragraphs 1 and 2 of Section 9 shall not apply to claims that have arisen due to fraudulent behaviour on the part of WIBERG, or where there is liability for guaranteed quality characteristics, for claims in accordance with the product liability law, or for compensation claims resulting from injury to life, limb or health.

Where WIBERG's liability is excluded or restricted this also applies to the company's employees, representatives and vicarious agents.

10. Industrial Property Rights and Copyright

In a copyright sense, all graphics and other works originating from WIBERG, in particular, prints designed by WIBERG are the property of WIBERG. Any use of such by clients or third parties requires prior written consent from WIBERG. WIBERG is not liable for any infringements of the rights of third parties, in particular for infringements of copyright or industrial property rights, when documents have been provided by the client or when the client's design guidelines have to be observed. In this regard, WIBERG does not make the necessary enquiries, such an investigation is the responsibility of the client.

Should legal action be taken against WIBERG by third parties due to the use, exploitation or copying of documents

provided by the client or of the client's guidelines for infringing the rights of such third parties – particularly with respect to copyright or industrial property rights – or for infringing the law against unfair competition, the client is to support WIBERG in its defence of the infringement of such rights and reimburse WIBERG for all damage accruing to WIBERG, including legal costs.

Drafts, finished artwork and clichés produced by WIBERG remain the property of WIBERG.

11. Sausage casings and packaging

Sausage casings that have been printed or manufactured in special production may not be returned or exchanged - except in the event of quality defects found in the raw material (tube casing) or in the event of clear manufacturing faults (printing, binding, tightening, etc.). In terms of the printing processes used, slight deviations in colour from those provided, or in print colours planned in drafts, are possible and still count as fulfilled contractual performance. Deviation in colour is held to be slight when contractual purpose has not been adversely impaired, especially in respect of the use of these colours in the client's business with customers.

The customer undertakes to accept part deliveries also in the case of special productions. An excess or short delivery of up to 10% of the quantity is deemed to meet the terms of the contract.

In the case of all sausage casings supplied to the Purchaser as special production a delivery including up to 3% defective goods is deemed to have met the requirements of the contract.

12. Other provisions

All packing delivered by WIBERG is entirely released by the NOVENTIZ GmbH under the licence number 0045001.

The law of the Federal Republic of Germany shall apply for these General Terms and Conditions and the entire privity of contract between the Purchaser and WIBERG. The provisions of the UN Convention on Contracts for the International Sale of Goods do not apply here and are expressly excluded.

Provided the Purchaser is a businessman, a legal entity under public law or a separate estate under public law, then Traunstein shall be the exclusive court of jurisdiction for all disputes arising directly or indirectly out of this contractual relationship.

Should a provision of these General Terms and Conditions or a provision in the context of other agreements be invalid or cease to be valid then the validity of all other provisions remain unaffected.

Where points are unclear from the English translation, then the German original version shall be the arbiter in case of doubt.