

## **General Terms and Conditions – Jiangsu Gadot Nuobei Biochemical Co., Ltd.**

The following terms and conditions shall apply to all offers and contracts for the sale of goods by Jiangsu Gadot Nuobei Biochemical Co., Ltd. (hereinafter "GBC"). Any general terms and conditions of the customer are hereby expressly excluded.

### **Conclusion of Contract.**

Oral agreements shall become valid only if and when GBC confirms the same in writing. Offers of GBC that do not include any acceptance deadline shall expire within fifteen (15) days of being made unless GBC receives written confirmation of acceptance by the customer within fifteen (15) days with effect from the offer date. The specifications related to a particular product shall only give an approximate indication insofar as they are not expressly designated as binding. GBC reserves the right to effect changes to the specifications of any of its products subject to notice reasonably prior to conclusion of a sale contract.

### **Price, Dispatch, Packaging, and Scope of Delivery.**

All prices shall be FOB (Incoterms 2000) excluding any applicable statutory domestic value added tax or comparable foreign tax. GBC shall select the type of packaging for the items to be delivered in accordance with the applicable laws and regulations. If the customer requests that GBC arrange delivery beyond the ship's rail, the costs thereof shall be charged to the customer and delivery shall be at the customer's risk. The customer shall take care of disposing of the packaging provided that GBC does not request its return.

### **Delivery Times and Force Majeure.**

Adherence to delivery times and/or GBC's performance of its obligations under a supply contract, shall require performance of contractual duties by the customer. Delivery times shall be reasonably extended or suspended, as applicable, in the context of events relating to force majeure (hereinafter, an "Event of Force Majeure"). For purposes hereof, an "Event of Force Majeure" shall mean an act of God, war (declared and undeclared), army mobilization, blockade, revolution, riot, insurrection, civil commotion, sabotage, lightning, fire, earthquake, storm, flood, explosion, strike or other labor unrest, unavailability or inability to obtain or delay in availability of necessary materials, equipment or transport, and any other cause whether of the kind specifically enumerated above or otherwise which is not reasonably within GBC's control, including commercial impracticability such as, for example, significant, unforeseen increases of raw material costs.

### **Payment, Due Date, Payment of Deposits, Default.**

Payment shall be made on or before the due date. Up to seven (7) days prior to the delivery date, GBC may require as a condition of delivery that the customer provide as security for payment an irrevocable and confirmed letter of credit, banker's bond or a bank guarantee. Payment default shall commence upon the due date for payment. With effect from the due date, all amounts owed shall be subject to interest at the rate of fifteen (15%) percent per annum. GBC reserves the right to claim further damages. If a partial or installment payment arrangement has been agreed, and if the customer defaults on an installment, then the remaining amount shall become due immediately. Withholding of payments with respect to any counterclaims or right of setoff of the customer, which are not acknowledged by GBC or which have not been established by final court decision, are strictly prohibited.

### **Secrecy.**

The customer must maintain secret any confidential information received from GBC and/or its subsidiaries or affiliated companies.

### **Cancellation Costs.**

If the customer withdraws a confirmed sales order, GBC may demand seven (7%) percent of the sale price with respect to costs of processing the order in question and loss of profits notwithstanding the possibility of claiming a higher actual loss. This provision shall not constitute a waiver by GBC of any rights or claims that it may otherwise have as a matter of law or equity.

### **Handling and Storage.**

The customer shall store the Products in adequate enclosed storage facilities that are clean, cool, and dry, and shall observe all local laws and regulations pertaining to the storage and handling thereof. The customer shall manage inventory so as to ensure that Products are sold to customers in accordance with the "FIFO" (first-in-first-out) method.

**Warranty.**

GBC warrants that the specifications of each of its Products supplied to its customers shall conform to their specifications as advised by GBC from time to time and unless indicated otherwise by GBC that the shelf life of each product shall be a period of one (1) year from production.

THE FOREGOING WARRANTY IS THE EXPRESS SOLE WARRANTY GIVEN BY GBC. ALL OTHER WARRANTIES AND ALL SUCH OTHER WARRANTIES AND REPRESENTATIONS OF WHATEVER KIND ARE NOT BINDING UPON GBC AND ITS AFFILIATES AND WAIVED BY THE CUSTOMER. GBC MAKES NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE WITH RESPECT TO THE PRODUCTS.

**Liability**

GBC shall in principle be liable only for "Defects" to its goods for a period of sixty (60) days from the date of delivery, except in the case of a claim for non-compliance with shelf-life, which must be made within the time of the shelf life of the product. For purposes hereof, a "Defect" shall exist when the goods sold fail to comply with their specifications, including shelf life, or there shall be a defect in respect of title to the goods. The customer shall be required to furnish evidence that the material Defect existed at the time of transfer of risk, unless the customer cannot reasonably be expected to do so in individual cases. Any dispute regarding the existence of a Defect shall be resolved with reference to GBC's batch samples, and the determination shall be made by an independent, reputable laboratory designated by GBC. In the event of a Defect, GBC shall, in its own discretion, be entitled by way of a subsequent performance to affect a replacement delivery of the defected goods or to rectify the Defect. In the event of a Defect in title, GBC shall be entitled to remedy such Defect by modifying the delivered item in a manner reasonably acceptable to the customer. The customer shall only be entitled to claim damages in lieu of performance in the event of intentional or grossly negligent breach of duty on the part of GBC. In the event of a Defect in title for which modification is not feasible on economically reasonable terms or within a reasonable period, both the customer and GBC shall be entitled to withdraw from the contract.

In the event of intent or gross negligence on the part of a legal representative or executive employee, and in the event of culpable breach of material contractual duties by the same or other employees, GBC shall be liable in accordance with applicable law. With regard to any breach of minor contractual duties by other employees, GBC shall not be liable. If determination of fault is required for any claim of the customer, the burden of proof and persuasion shall rest with the customer unless otherwise prescribed by applicable law.

GBC AND ITS AFFILIATES SHALL HAVE NO LIABILITY TO ITS CUSTOMER OR ANY OF ITS AFFILIATES FOR ANY GENERAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS ARISING OUT OF THE MANUFACTURE, IMPORTATION, USE, OFFER FOR SALE OR SALE OF THE PRODUCTS.

**Retention of Title.**

GBC shall retain title to all items delivered until receipt of payment in full and shall be entitled to withdraw from the contract if the customer is in arrears with such payment. Retention of title shall also extend to claims that GBC acquires retrospectively against the customer in connection with items delivered hereunder. The customer shall be entitled to resell the items delivered in the course of ordinary business dealings; the customer hereby assigns to GBC all claims arising from the resale of items delivered to third parties in the sum of the purchase price agreed between GBC and the customer (including any applicable statutory domestic value added tax or comparable foreign tax) irrespective of whether resale takes place before or after processing of the goods with respect to which title is retained. The customer shall be authorized to collect claims against the third party, provided the customer complies with its payment obligations in relation to GBC and insolvency proceedings have not been instituted with respect to the customer's assets. GBC's right to collect the claim itself shall remain unaffected thereby. However, GBC undertakes not to collect the claims provided that the customer properly complies with its payment obligations and is not otherwise in arrears with payment, and insolvency proceedings have not been instituted with respect to its assets. However, if this is the case, GBC may require that the customer disclose the claim assigned and the debtor in question, make all indications required for collection, surrender the relevant documents, and notify debtors (third parties) of such assignment of claims. In the case of linkage, blending or combining with other goods not belonging to GBC, the latter shall acquire joint title to the new item in proportion to the value of the item supplied by GBC compared with the other goods at the time of linkage, blending or combining. GBC undertakes to release the collateral that it holds upon the customer's request to the extent that the value thereof exceeds the claim to be secured by more than 20%. The customer may not pledge or assign as security the items delivered. In the case of access by third parties, in particular in the case of attachment, the customer must provide written notification to GBC immediately, as well as refer the third party immediately to the retention of title by GBC. The customer shall bear all costs incurred in removing access or recovering the goods or the items delivered. The customer shall be obligated to maintain the goods delivered in a proper condition for the period of retention of title and, for as long as the customer has not yet resold the same in the ordinary course of business. In addition, as long as the customer has not yet resold the goods delivered in the ordinary course of business and has transferred possession thereof, the customer shall label the same as being in the ownership of GBC.

**Duty of Collaboration with regard to Advice / Directions for Use.**

GBC requests an express indication if the customer bases its own conduct on advice and/or directions for use given by GBC, the effects of which are not clearly obvious to GBC. Unless otherwise indicated by GBC in writing, directions by GBC shall not be binding in nature.

**Laws on Foreign Trade.**

GBC shall be responsible for adherence to Chinese regulations insofar as products manufactured in China are exported. The observance and implementation of the relevant rules under the laws on foreign trade (e.g. import licenses, foreign-currency transfer authority, etc.) and other laws applying outside of China shall be the exclusive responsibility of the customer.

**Place of Performance, Place of Jurisdiction, and Applicable Law.**

The business relations shall be exclusively subject to the laws of China. The UN Convention on the International Sales of Goods (1980) shall not apply. The place of performance and the place of jurisdiction with regard to all goods supplied shall be the competent courts of jurisdiction in Yancheng City, Jiangsu Province, China. GBC shall be entitled at its discretion to assert its own claims at the customer's place of jurisdiction. The customer shall not be permitted to bring a counterclaim before courts other than the court before which the original action is brought, or to seek to offset its own claim against the claim in the action before courts other than the first court invoked.

**Severability.**

In the event that any term hereof should be or become invalid, this shall not affect the validity of the remaining terms.

**Validity.**

These General Terms and Conditions shall be binding upon both GBC and the customer unless otherwise agreed in writing. Contrary provisions of the customer shall only be valid insofar as they are accepted by GBC in writing.

Last updated on February 22nd, 2009