



# STANDARD CONDITIONS OF SALE OF HAIFA NORTH WEST EUROPE BV

These Standard Conditions of Sale apply from May 2015 and may be amended at any time without prior notice.

## 1. General

These Standard Conditions of Sale shall constitute the sole and exclusive conditions of sale regarding the products (each a "Product"; and together, "Products") of Haifa North West Europe BV ("Seller") sold to Buyer, except to the extent expressly varied in writing and as long as the same are not inconsistent with the terms and conditions set forth in a specific supply agreement between the parties. In the event that the provisions of these Standard Conditions of Sale are inconsistent with the terms and conditions of said supply agreement, the stipulations of said supply agreement shall prevail. No change to these conditions shall be valid unless made in writing and signed by Seller. These Standard Conditions of Sale constitute notification of Seller's rejection of any standard terms and conditions referenced by Buyer.

## 2. Offer and Acceptance

**2.1** A purchase order by Buyer shall be subject to written acceptance by Seller. In case Seller's acceptance differs from Buyer's purchase order, such acceptance constitutes a new non-binding offer of Seller. Buyer's purchase order duly accepted by Seller shall be hereinafter referred to as an "Order"

**2.2** Orders that the delivery lead time exceeds (28) days from due acceptance of Buyer's purchase order by Seller, will entitle Seller, at its sole discretion, to modify the price, quantity and terms of payment related to such Order or to cancel any such Order.

**2.3** Buyer is entitled to withdraw its Order by giving written notice to Seller within five (5) days after notification of the price increase, provided that such Order has not yet been dispatched.

## 3. Cancellation

**3.1** Orders may not be cancelled or varied by Buyer without Seller's written consent and may entail, as a condition to such consent, the reimbursement to Seller of costs incurred in performing such Order. If Buyer purports to cancel or vary an Order without Seller's consent or refuses to accept delivery of Products previously ordered, then, without prejudice to any other rights or remedies that Seller may have, Seller shall be entitled to charge Buyer any costs and fees incurred by Seller in respect of all Products ordered, supplied or manufactured for execution of such Order, as well as a cancellation fee equal to five percent (5%) of the market value of the Products under the Order so cancelled. In these circumstances, Seller shall be entitled to store the Products, at Buyer's cost, and to dispose of the Products to any third party on such terms as Seller may see fit. All costs and expenses incurred in such disposal shall be reimbursed by Buyer to Seller upon Seller's first demand.

**3.2** Without derogating from any other rights or remedies available to Seller, Seller shall be entitled to cancel an Order and suspend all future deliveries in the event of filing by or against Buyer of any petition in liquidation or insolvency, or any petition for relief under the provisions of applicable law for the relief of debtors; or the appointment of a special manager, temporary liquidator, temporary receiver or trustee to take possession of any material assets of Buyer; or the placement of attachment on any of the material assets of Buyer which is not discharged within seven (7) days; or the adoption of a resolution by Buyer to voluntarily liquidate; or Buyer stops payment or ceases or threatens to carry on its business or to pay its debts as they fall due.

## 4. Prices and Payment Terms

**4.1** Prices and payment terms, including INCOTERMS, are as stated on the reverse side of the invoice and/or delivery note accompanying the Products purchased by Buyer.

**4.2** Unless otherwise stated on the reverse side of the invoice and/or delivery note accompanying the Products, payment shall be due in full [thirty (30)] days after the invoice date, in the currency stated on the invoice. Time of payment is of the essence.

**4.3** Regardless of the place of delivery of Products or documents, the place of payment shall be Seller's place of business.

**4.4** If Seller's prices or Seller's terms of payments are generally altered between the date of Order and dispatch, Seller may apply the price or the terms of payment in effect on the date of dispatch. In the event of a price increase, other than through government measures, Buyer is entitled to withdraw from its Order by giving written notice to Seller within five (5) days after notification of the price increase to extent such Order has not yet been dispatched.

**4.5** Seller reserves the right to decline delivery of Products or to accept payment, except if payment is made by wire transfer in immediately available funds to Seller's designated bank account or against irrevocable confirmed letter of credit, provided that in the event of payment by letter of credit, confirmation by a clearing bank is required. Such declination shall not give rise to any cause of action against Seller.

**4.6** Buyer undertakes to settle its payment obligations to Seller by their due date in accordance with the terms and conditions of this Clause 4. Failure to pay the price by the due date shall constitute a material breach of Buyer's contractual obligations. In the event of a default in payment and unless otherwise agreed upon between the parties, Seller is entitled to charge default interest on all amounts due and outstanding from Buyer, commencing from their due date and until actually paid at an annual rate of interest of fifteen percent (15%). All amounts due and outstanding from Buyer and the interest accrued thereon shall be linked to the increase in the official exchange rate of the US\$ published by [the Bank of England] from the rate last known at the due date to the last known rate on the date of payment.

## 5. Delivery; Shipping Dates; Packaging

**5.1** Delivery shall be effected as determined by Seller in its written acceptance of Buyer's purchase order. International shipping trade terms (such as CIF and FOB) shall be as specified on the invoice issued to Buyer or the delivery note attached to the shipped Products, and these terms shall be interpreted in accordance with the INCOTERMS in force on the date the Order is concluded, except to the extent inconsistent herewith. In case that non INCOTERM trade terms are established, Ex-works (EXW) would be regarded as applying to Seller's responsibility to said purchase order.

**5.2** Seller shall not be obligated to dispatch any Products ordered by Buyer, unless Buyer has obtained all applicable government and other approvals. It is explicitly mentioned that Buyer is solely responsible to obtain all licenses, authorizations and other approvals as are required in accordance with the national regulations in the destination country. Seller must be instructed in writing by the Buyer in case any such documents are required to be issued by the Seller.

**5.3** Unless specifically agreed otherwise, delivery times are best estimates only and shall not be of the essence. Seller will undertake all reasonable efforts to deliver the Products by the estimated delivery time. Seller reserves the right to change delivery dates for Products in accordance with available delivery options. Any expected delays in shipments will be notified to Buyer.

**5.4** In the event of bulk delivery, Seller shall use its best efforts to deliver to Buyer the exact amount of Products ordered. Notwithstanding the foregoing, Buyer shall be obligated to accept the delivery of an amount of Products varying by not more than five percent (5%) from the amount under the applicable purchase Order, and the invoice amount for such Order shall be adjusted accordingly, except where such adjustment may be impracticable in the event of an overseas Order.

**5.5** Buyer shall solely bear all responsibility for proper unloading of Products from containers or delivery trucks or any other means of transportation used for the delivery of Products, in order to avoid damage to Products upon delivery.

## 6. Product Quality; Inspection of Products

**6.1** Unless otherwise agreed, the quality of the Products is determined by Seller's Product specifications, which can be found on Seller's website at [www.haifa-group.com](http://www.haifa-group.com)

**6.2** Buyer undertakes to examine Products for defects and shortages upon receipt. Claims regarding received Products must be made in writing before Products are used and must be received by Seller within ten (10) days of receipt of Products by Buyer. Such notification must describe the nature and extent of the alleged defects in detail. Seller must be given reasonable opportunity to investigate such claims. Any defect of Products which would have been observable on reasonable inspection by Buyer and which was not notified to Seller in writing within ten (10) days of receipt of the relevant Products, is hereby waived, and Buyer shall have no right to bring any claims or suits against Seller with regard to such claims, nor shall Buyer be entitled to terminate its agreement with Seller or revoke its Order or

acceptance regarding the Products based on such defect.

## 7. Suitability; Compliance with Legal Requirements; Warranties

**7.1** Buyer shall be solely responsible for determining and ensuring the suitability and fitness of Seller's Products for the purposes for which Buyer requires them and the circumstances in which they will be used. Any advice or information rendered by Seller with respect to suitability and applications of the Products shall not relieve Buyer from undertaking its own investigations and tests.

**7.2** Subject to Clause 7.8 below, if at any time following delivery of Products, Buyer claims that a Product is defective, and provided that such defect did not trigger the notification obligation set forth in Clause 6.2 above, Buyer shall give written notice of such alleged defect (including reasonable details with regard thereto) within ten (10) days upon its discovery. Failure of Buyer to provide such notice, or to pay the entire purchase price when due, shall constitute a waiver by Buyer of all rights with regard to such claims, including the right to terminate its agreement with Seller or revoke its Order.

**7.3** Unless specifically agreed otherwise, Buyer is responsible for compliance with all laws and regulations regarding import, transport, storage and use of the Products.

**7.4** Seller accepts no liability for any misuse or unreasonable use of the Products, or Buyer's failure to carry out its statutory or contractual obligations. Seller shall not be responsible for any defect or failure of a Product, or any damages whatsoever caused by a Product, which has been modified by any person.

**7.5** In the event that Products are defective and notification of such defect has been duly made, Seller's only obligation shall be, at its sole discretion, to either supply Buyer with non-defective replacement Product, or to issue a credit with regard to such Product. Products returned to Seller and replaced shall become the property of Seller.

**7.6** Except as expressly provided in Clause 7.5 hereof, Seller shall have no further liability to Buyer in contract, tort or otherwise arising out of the supply of the Products. Seller's maximum liability is limited to the purchase price of the Product which gives rise to the claim. Under no circumstances shall Seller be liable (whether in contract, tort or otherwise) for any loss of profit (whether direct or indirect) or for any indirect, contingent, special or consequential loss, damage or injury to Buyer.

**7.7** THIS CONDITION IS IN SUBSTITUTION FOR AND (TO THE EXTENT PERMITTED BY ENGLISH LAW) EXCLUDES ALL OTHER CONDITIONS, WARRANTIES AND TERMS AS TO SATISFACTORY QUALITY AND FITNESS, WHETHER EXPRESS OR IMPLIED, AND WHETHER PROVIDED BY STATUTE, COMMON LAW OR OTHERWISE.

**7.8** Notwithstanding the provisions of Clause 7.2, no suit or legal proceeding arising under these Standard Conditions of Sale shall be maintainable against Seller unless commenced or made by Buyer within one (1) year after completion of discharge or failure to deliver Products hereunder.

**7.9** Seller shall not be liable to Buyer for any third party claims brought against Buyer. Buyer hereby undertakes to indemnify Seller against any claim brought by a third party against Seller relating to the Products.

**7.10** Nothing in these Standard Conditions of Sale shall be deemed to exclude or limit Seller's liability for fraudulent misrepresentation or for death or personal injury caused by Seller's negligence.

## 8. Set off

Buyer may not set-off any obligation owed to it by Seller against any obligation it owes to Seller under these Standard Conditions of Sale. Seller may set-off any obligation owed to it by Buyer under these Standard Conditions of Sale against any obligation (whether or not due and payable) owed by Seller to Buyer, regardless of the place of payment or currency of either obligation, upon giving Buyer a written notice to this effect.

## 9. Security

**9.1** Without derogating from any other remedies that may be available to it, Seller shall be entitled to withhold shipment of Products to Buyer under a contract for future shipments in the event that as of the proposed shipment date, Buyer has any due and unpaid obligations to Seller.

**9.2** Without derogating from the foregoing, if in Seller's reasonable judgment Buyer's credit becomes impaired, Seller may, at its sole option, revoke credit periods, suspend future deliveries, make further deliveries dependent on advance payment and/or request Buyer to provide it with reasonable guarantees and/or security.

## 10. Title and Insurance

**10.1** The products shall remain property of the seller until full compensation of the Seller by the Buyer (purchase price, costs, interests, damages etc.). Nevertheless, the risks of the loss and the destruction of the Product will be passed immediately to the Buyer when the Product has been delivered. The Buyer needs to warn the Seller immediately when the Product is stored in a storage space that is not his property and shall, upon request of the Seller, inform the Seller about the identity of the owner of this space. For the avoidance of doubt the retention rights are full retention rights

**10.2** Until the property of the Product has been fully transferred to the Buyer, it is prohibited for the Buyer to use the Product as a mean of payment, a collateral arrangement or to pledge. The Buyer will inform the Seller immediately by registered post if a third party would have confiscated the Product.

## 11. Arbitration

All difficulties arising between Buyer and Seller and related issues will be judged by the Courts of Antwerp, Belgium. The Belgian law is applicable to all disputes between Buyer and Seller and issues related to the relationship between Buyer and Seller.

## 12. Force Majeure

In no event shall Seller be responsible or liable for any loss caused by (but not limited to) explosions, fires, riots, sabotage, war, expropriation or nationalization, acts of God, storm, disasters, laws and regulations of country of Buyer and/or Seller, strikes of port workers or vessel crew members, or any other cause beyond Seller's control ("Force Majeure"). Seller will inform Buyer of the occurrence of a Force Majeure event as soon as reasonably possible after becoming aware thereof, specifying the period for which such Force Majeure event is expected to continue. In such event, Seller shall be entitled to defer the shipment date, or, depending on the nature of the Force Majeure event, cancel Buyer's Order; provided that Seller will use its reasonable endeavors to remove or overcome such Force Majeure as quickly as possible, and will use its reasonable endeavors to mitigate the impact of such Force Majeure on Buyer.

## 13. Intellectual Property Rights

No license or right under any patent, copyright, trademark, trade-name, logo or any other intellectual property right, is either granted or implied to Buyer under these Standard Conditions of Sale.

## 14. Separate Provisions

Each of these conditions is to be construed as a separate provision surviving and applying even if one or more of the others is held void and unenforceable.

## 15. Waiver

Any waiver by Seller of any breach or default by Buyer of any of Buyer's obligations under these Standard Conditions of Sale, shall not be construed as a waiver of any other breach or default by Buyer or of Seller's right to enforce its rights in any other circumstances.

## 16. Communication

All notices, demands, claims, and other communications from one party to the other will be in writing and sent to such party's registered office. Any such communication shall be dated and shall be deemed to have been duly given (i) on the date of actual delivery, if delivered personally or by facsimile (with receipt confirmed), (ii) on the following business day, if delivered by a recognized overnight courier service, or (iii) seven (7) days after mailing, if sent by registered or certified mail, return receipt requested, postage prepaid.

**17. These Standard Conditions of Sale or any contract to which they apply shall in no event be construed to confer any rights to third parties.**