

TERMS AND CONDITIONS OF SALE

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions:

Buyer means the person, firm or company who purchases the Goods from the Company; **Company** means IFR ENTERPRISES LIMITED (CRN: 3398534); **Contract** means any contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these conditions; and **Goods** means any yeast strains agreed in the Contract to be supplied to the Buyer by the Company (in any physical form e.g. live slope, liquid culture, glycerol stock, freeze-dried ampoule or genomic DNA).

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.2 the Contract shall be 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 or other document) and furthermore the Buyer acknowledges that it has not relied on any statement or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

2.2 Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions.

2.3 No order placed by the Buyer shall be 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.

2.4 The Buyer shall ensure that the specifications of Goods in its order are complete and accurate.

3. DESCRIPTION

3.1 The quantity and description of the Goods shall be as set out in the Company's acknowledgement of order.

3.2 All descriptive matter, specifications and advertising issued by the Company and any descriptions contained on the Company's website (including NCYC website www.ncyc.co.uk) are provided for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

4. DELIVERY

4.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Company's place of business.

4.2 Any dates specified by the Company for delivery of the Goods are an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.

4.3 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss) or other costs caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.

4.4 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

- (a) risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);
- (b) the Goods shall be deemed to have been delivered.

4.5 The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract and each instalment shall be a separate Contract.

5. NON-DELIVERY

5.1 The quantity of any consignment of Goods as recorded by the Company on despatch shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

5.2 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Buyer gives written notice to the Company of the non-delivery within 7 calendar days of the date when the Goods would in the ordinary course of events have been received.

5.3 Any liability of the Company for non-delivery of the Goods shall be limited 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.

6. RISK/TITLE

6.1 The Goods are at the risk of the Buyer from the time of delivery.

6.2 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of the Goods and all other sums which are or which become due to the Company from the Buyer on any account.

6.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall hold the Goods on a fiduciary basis as the Company's bailee.

6.4 The Buyer's right to possession of the Goods shall terminate immediately if:

- (a) the Buyer is the subject of a bankruptcy order made against him or, being a body corporate, the Buyer enters into liquidation, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
- (b) the Buyer fails to observe or perform any of its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade.

- 6.5 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 6.6 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 6 shall remain in effect.
7. **PRICE**
- 7.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Company's price list published on the date of delivery or deemed delivery.
- 7.2 The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.
8. **PAYMENT**
- 8.1 Subject to condition 8.4, payment of the price for the Goods is due in pounds sterling within 30 days of the date of the Company's invoice for the Goods and the Buyer shall make all payments due under the Contract in full without any deduction whatsoever.
- 8.2 Time for payment shall be of the essence and no payment shall be deemed to have been received until the Company has received cleared funds.
- 8.3 All payments payable to the Company under the Contract shall become due immediately on its termination.
- 8.4 The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
9. **QUALITY**
- 9.1 The Company warrants that on delivery the Goods shall be considered viable and conform to the Company's description.
- 9.2 The Company shall not be liable for a breach of condition 9.1 unless the Buyer gives written notice of the defect to the Company within 7 calendar days of delivery or if the defect arises because the Buyer failed to follow good scientific and microbiological practice.
- 9.3 Subject to condition 9.2, if the Goods do not conform with condition 9.1 the Company shall at its option replace such Goods or refund the price of such Goods at the pro rata Contract rate and if the Company complies with this condition it shall have no further liability for a breach of condition 9.1 in respect of such Goods.
10. **LIMITATION OF LIABILITY**
- 10.1 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 10.2 Nothing in these conditions excludes or limits the liability of the Company for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability or for fraud or fraudulent misrepresentation.
- 10.3 Subject to condition 10.1 and condition 10.2:
- (a) the Company's total liability arising out of or in connection with the Contract shall be limited to the Contract price; and
- (b) the Company shall not be liable to the Buyer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
11. **NO SUBSEQUENT SALE**
- 11.1 The Buyer shall not be entitled to subsequently re-sell, license, market, or similar, the Goods whatsoever without the prior written consent of the Company.
12. **FORCE MAJEURE**
- The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume 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.
13. **GENERAL**
- 13.1 The rights of the Company under the Contract is without prejudice to any other right or remedy of the Company.
- 13.2 If any provision of the Contract is found by any court to be illegal or otherwise invalid it shall, to the extent of such illegality or invalidity be deemed severable and the remaining provisions of the Contract shall continue in full force and effect.
- 13.3 Failure or delay by the Company in enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract and any waiver by the Company of any breach of, or any default under, the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall not affect the other terms of the Contract.
- 13.4 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 13.5 This Contract and any dispute or claim arising out of or in connection with it shall be governed by and construed in accordance with English law, and the parties submit to the exclusive jurisdiction of the English courts.
14. **COMMUNICATIONS**
- 14.1 All communications between the parties about the Contract shall be in writing and sent by pre-paid first class post or sent by fax:
- (a) (to Company) to its address as provided at the Company's website www.ncyc.co.uk marked for the attention of the NCYC Collection Manager; or
- (b) (to Buyer) to any address of the Buyer set out in any document which forms part of the Contract.
- 14.2 Communications shall be deemed to have been received, if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting or on the next working day following transmission in respect of fax communications.