



GENERAL TERMS AND CONDITIONS OF SALE

1. General

These general terms and conditions of sale (hereinafter “**General Terms**”) shall apply to all products (hereinafter “**Products**”) sold by Get Bio Pak Co., Ltd with business identity code 014379-6 and with its domicile in Hangzhou, China or any of its affiliates (hereinafter “**Seller**”) to its customers (hereinafter “**Buyer**”) and Buyer shall be deemed to accept these General Terms by ordering any Products, unless specifically agreed otherwise in writing between Seller and Buyer. These General Terms override any additional or deviating terms or conditions included in the Buyer’s purchase order or otherwise referred to by Buyer or Seller, unless specifically agreed otherwise in writing.

2. Seller’s Commitments

Seller warrants that the Products shall at the time of delivery conform to Seller’s then current sales specifications applied in Seller’s normal business practice (hereinafter “**Sales Specifications**”), unless specifically agreed otherwise in writing between Seller and Buyer. All descriptions, drawings, photographs, illustrations, samples, performance and technical data, dimensions, weights and the like, contained in any promotional or technical material issued by Seller are subject to variation without notice and shall not be considered as Sales Specifications as such. Seller shall not be liable for any defect in parts, materials or equipments not supplied or manufactured by Seller.

3. Intellectual Property

3.1 Seller shall retain ownership of all its intellectual property rights and nothing herein shall grant to Buyer title, license or any other right to any intellectual property rights of Seller.

3.2 Except to the extent manufactured under the instructions of Buyer, Seller warrants that, to the best of Seller’s knowledge, the manufacture of the Products does not infringe any patent of the country of the manufacture. Buyer assumes all responsibility for and indemnifies and holds Seller harmless (including reasonable attorneys’ fees) for the use of any technical information, patent, design, trademark, trade name, or part thereof, printed or fitted on the Products at Buyer’s request.

4. Warranty and Limitation of Liability

4.1 The commitments set out in Articles 2 and 3 above are Seller’s sole warranties in respect of the Products.

4.2 Any other representation or warranty of any kind, express or implied, including but not limited to warranties as to the quality, suitability or merchantability of the Products or fitness for any particular purpose whether arising under statute or otherwise, is excluded.

4.3 Buyer shall comply with all applicable laws and regulations. Buyer shall inspect, at its sole cost and expense, the supplied Products immediately after delivery. If any of the supplied Products is rejected because of nonconformity to Sales Specifications, Seller shall be entitled to replace the Products (or the part in question) free of charge or, at Seller’s sole discretion, refund to Buyer the price of the Products actually received by Seller, but Seller shall have no further liability to Buyer. Failure to give written notice of any claim within thirty (30) days from the date of delivery and/or use of the supplied Products shall constitute an unqualified acceptance of such Products by Buyer and a waiver by Buyer of all claims in respect of such Products.

4.4 Seller shall not be liable for damage caused by the acts or omissions of Buyer.

4.5 Except for direct product damage, death or personal injury caused by a defective Product, the maximum amount of damages recoverable in any event, whether arising from breach of contract or from statutes, including negligence, shall be limited to the price paid by Buyer for the shipped Products with respect to which damages are claimed. In no event shall Seller be liable for loss of profits, loss of business, depletion of goodwill (whether direct or indirect), or indirect, consequential, special, punitive or exemplary damages even though Seller may have been advised of the possibility of such damages or losses and even though such damages or losses are otherwise obvious or reasonably foreseeable.

5. Price and Terms

5.1 Unless agreed otherwise, the price for the Products shall be Seller’s price in effect at the time of shipment. Seller reserves the right, by written notice given at any time before shipment,

(i) to change the previously agreed price, terms and conditions of payment or of transportation or the minimum requirement per shipment; and

(ii) to increase the price of Products if there is any increase in the price or cost of the Products to Seller by virtue of foreign exchange fluctuations, currency regulations, changes in duties or taxes, increase in the cost of raw materials, labor, energy or transport or any other causes beyond the control of Seller.

Buyer’s failure to make written objection to the change or price increase in (i) or (ii) above within fifteen (15) days of the date of receipt of Seller’s notice shall be considered acceptance. If Buyer objects within fifteen (15) days of the date of receipt of Seller’s notice, Seller shall have the option (a) to continue to supply on the terms and conditions in effect prior to the announced change or increase, or (b) to cancel the affected quantities of Products with immediate effect, and shall advise Buyer accordingly within fifteen (15) days from receipt of Buyer’s written objection.

5.2 The agreed price for the Products shall always be exclusive of any value added tax or other similar taxes, duties or imposts levied by any governmental agency (including, but not limited to, those at state or municipal levels) with respect to the Products supplied hereunder. If Seller is required by applicable law or regulation to pay or collect any such taxes, as enumerated in the preceding sentence on the Products supplied hereunder, then such taxes shall be paid by Buyer in addition to the payments of the agreed price for the Products.

5.3 Buyer shall pay each relevant invoice sent by Seller in respect of the Products no later than fourteen (14) days after the date of the invoice by direct bank transfer to the bank account defined by Seller without setoff or deduction. The time for payment of Seller’s invoices shall be of the essence of these General Terms. The interest rate for overdue payments is the greater of two (2) % per month or the maximum amount as permitted under the applicable law. The specific terms of payment shall be those set out in Seller’s invoice. Buyer shall pay Seller’s reasonable costs of collection, including attorneys’ fees and other legal expenses. Seller may setoff any amounts owing from Buyer against any amounts payable by Buyer.

6. Title, Delivery and Risk of Loss

6.1 Seller shall transfer the Products with good title, free from any liens or encumbrances.

6.2 Until payment in full has been received by Seller for the supplied Products:

(i) title to the Products shall remain with Seller;

(ii) the Products shall so far as practicable be kept separate from other goods on the premises of Buyer so as to be readily identifiable as the property of Seller, and;

(iii) Buyer shall be at liberty to resell the Products in the ordinary course of business or to use the Products in any process provided that such liberty shall be deemed automatically cancelled without the need for notice if Buyer fails to make any payment when it becomes due, or is in default of due performance or observance of any other Buyer’s obligation, or enters into liquidation or receivership. Seller may then by notice in writing to Buyer cancel the supply of Products.

6.3 Seller shall be entitled to enter upon Buyer’s premises at any time in order to remove any of the Products to which Seller has retained title and/or upon cancellation of Buyer’s liberty to resell or use the Products. For this purpose Buyer shall afford Seller all reasonable assistance to locate and take possession of the Products and shall promptly place the Products at Seller’s disposal.

6.4 Buyer shall be fully liable and shall indemnify and hold Seller harmless from and against all liability, losses, payments, costs, damages, expenses (including attorneys’ fees and other legal expenses) and other liabilities of whatever nature incurred by Seller as a result of Buyer’s failure to make any payment when it becomes due and/or default in due performance or observance of any other Buyer’s obligation.

6.5 If a potential order confirmation does not specify trade terms as defined in Incoterms, the Products shall be delivered Ex Works (EXW) Seller’s premises, and Buyer shall bear all risks of loss of or damage to the Products from the moment the Products have been placed at Buyer’s disposal at Seller’s premises. Trade terms shall be interpreted in accordance with Incoterms latest edition. Time for delivery shall not be of the essence.

6.6 For the purpose of the foregoing paragraphs of this section 6 and in the absence of evidence to the contrary Products supplied by Seller to Buyer at any time shall be deemed to have been resold, used or processed in the order in which Products were supplied. Nothing herein shall give Buyer the right to return the Products to Seller.

7. Force Majeure

Neither party shall be liable for non-performance of its obligations if such non-performance is caused by accident, mechanical breakdown of facilities, fire, flood, natural disasters, strike, labor trouble, riot, revolt, war, acts of governmental authority, computer system failures, unavailability of materials, energy or components, delays in transportation or other contingencies beyond the reasonable control of the party affected. In case of force majeure event affecting Seller, Seller’s obligations may be suspended, without liability, for so long as such event occurs but the supply relationship shall otherwise remain unchanged. The decision of Seller as to the quantities of the Products affected shall be final and binding.

8. Confidentiality

8.1 The parties hereto undertake towards each other during the term of the supply relationship and three (3) years thereafter to keep in the strictest confidence all confidential information and trade secrets received from the other party in connection with the supply relationship, and to use the said information for the purposes of the supply relationship only. However, the obligation above shall not apply to confidential information

(i) which the receiving party may prove having been in the possession prior to the first receipt from the other party;

(ii) which at the date hereof or thereafter becomes a matter of public knowledge without a breach of this confidentiality obligation; or

(iii) which the receiving party may prove having been obtained from a third party under circumstances permitting its disclosure to others.

8.2 The parties shall not, without prior written consent of the other party, disclose to any third parties that there exists any cooperation between the parties.

9. Non-performance

9.1 If Buyer fails to perform any of its obligations when due, Seller may, at its option, decline to make further deliveries except for cash, or may recall or defer shipments until such default is remedied, or may treat such default as final refusal to accept further shipments and cancel the supply relationship.

9.2 Seller shall be entitled to demand prepayment or the provision of security before production start, supply of outstanding deliveries or provision of other outstanding services, if such facts become known to Seller which have the potential to jeopardize the making of any payment by Buyer when due.

9.3 The foregoing rights shall be cumulative, alternative and in addition to any right or remedy Seller may have under these General Terms or by law or in equity.

10. Performance by Affiliates

At Seller’s option, any obligation of Seller may be performed by Get Bio Pak Co., Ltd or any of its affiliates. Any deliveries made under this condition may be invoiced by such affiliate and shall constitute performance by Seller.

11. Assignments and Third Party Rights

11.1 Buyer shall not transfer nor assign its obligations to any third party (excluding the Buyer’s affiliates) without Seller’s prior written consent.

11.2 A person who is not a party to a contract incorporating these General Terms shall not have any right (whether under any statute or otherwise) to enforce any provision of that contract.

12. Non-waiver

Failure to exercise any rights shall not constitute a waiver thereof.

13. Severability of Provisions

If any provision of these General Terms should be held invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected.

14. Applicable Law and Dispute Resolution

14.1 Unless specifically agreed otherwise in writing, these General Terms and the supply relationship shall be governed by and construed in accordance with laws of the place of incorporation of Seller. The United Nations Convention on Contracts for the International Sale of Goods (1980) shall not apply to these General Terms or the supply relationship. 14.2 Unless specifically agreed otherwise in writing, any dispute, controversy or claim arising out of or relating to these General Terms, the supply relationship or the breach, termination or validity thereof (whether contractual or non-contractual in nature) shall be finally settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The arbitration shall take place in the domicile of Seller and shall be conducted in the English language. Regardless of the aforesaid, Seller shall alternatively be entitled to assert its own claims against Buyer at the courts at Seller’s registered seat of business.

15. Amendments

These General Terms shall be subject to further amendments or rescission made by Seller without notice to Buyer and a valid version is always available on Seller’s website, www.getbiopak.com.