

TERMS AND CONDITIONS OF SALE

1. Interpretation

- 1.1. In these terms and conditions of sale ("**Conditions**"), the following expressions have the following meanings:

"**Business Day**" means any day other than a Saturday, Sunday or a day which is a public or bank holiday in England or Wales;

"**Goods**" means the goods (being any machinery or equipment (or part thereof or spare part therefor or other goods) sold or to be sold or services supplied or to be supplied by us to you.

"**Value Added Tax**" means any tax introduced pursuant to any directive of The Council of the European Community relating to turnover taxes including value added tax as provided for in the Value Added Tax Act 1994 and legislation (whether delegated or otherwise) supplemental thereto and any similar tax replacing or introduced in addition to the same;

"**We**", "**our**", "**us**" means;

- (i) Interfood Technology Limited, a company incorporated and registered in England and Wales with company number 03800145 whose principal office is at 30 Upper High Street, Thame, Oxfordshire OX9 3EZ; or
- (ii) Interfood Slicing Limited, a company incorporated and registered in England and Wales with company number 06319039 whose principal office is at 30 Upper High Street, Thame, Oxfordshire OX9 3EZ; or
- (iii) Interfood Systems Limited, a company incorporated and registered in England and Wales with company number 06347996 whose principal office is at 30 Upper High Street, Thame, Oxfordshire OX9 3EZ,

as applicable; and

"**You**", "**your**" means the party whose name appears on an invoice for Goods supplied by us.

- 1.2. Headings are for ease of reference only and shall not affect construction.
- 1.3. Words importing one gender shall be treated as importing any gender, words importing individuals shall be treated as importing corporations and vice versa, words importing the singular shall be treated as importing the plural and vice versa, and words importing whole shall be treated as including a reference to any part thereof.

2. Conditions

- 2.1. These Conditions shall apply to all quotations given or contracts made or agreed to be made for the sale of Goods, Any conditions submitted, proposed or stipulated by you in whatever form and at whatever time, whether written or oral, and any conditions which are implied by trade, custom, practice, or course of dealing are expressly waived and excluded.
- 2.2. We shall not be bound by any variation to these Conditions unless agreed in advance and in writing by a director of us.

3. Orders

- 3.1. No order sent by you shall be binding upon us until it has been expressly confirmed in writing by us, at which point the contract between you and us shall come into existence.
- 3.2. We shall be under no obligation to:
- 3.2.1. confirm any order sent by you to us; and
 - 3.2.2. prefer you as against any other person with whom we may contract for the sale of any goods offered for sale by us.

4. Price

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- 4.1. The price of the Goods shall, unless otherwise stated by us in writing, be our list price current at the date of delivery. In the case of an order for delivery by instalments the price payable for each instalment shall be our list price at the date of delivery of such instalment.
- 4.2. We reserve the right by notice given at any time before delivery to vary the price of the Goods if, after the date of the contract between you and us, there is an increase in the cost of the Goods to us by reason of any circumstance outside our control including (without limitation) increases in the cost of materials, labour or transport, exchange rate fluctuations, increases in import levies or other taxes, war, hostilities or warlike operations. If the price of the Goods is increased pursuant to this Condition 4.2, you may cancel the undelivered balance of the contract by written notice to us served within 5 Business Days of receipt of such notice given by us.
- 4.3. Unless otherwise agreed in writing by us, the price of the Goods is exclusive of costs of packaging and delivery which must be paid at the same time as payment for the Goods.

5. Value Added Tax

- 5.1. All payments to be made by you to us under these Conditions are calculated without regard to Value Added Tax. If any such payment constitutes the whole or any part of the consideration for a taxable supply or deemed taxable supply (whether or not such supply is a taxable supply or deemed taxable supply pursuant to the exercise of any option) by us, the amount of that payment shall be increased by an amount equal to the Value Added Tax chargeable on the supply in question.
- 5.2. Subject to Condition 5.3, an amount equal to any Value Added Tax chargeable on any supply for Value Added Tax made pursuant to these Conditions by us, including, without limitation, any such supply deemed to be made by us, shall be paid by you to us on demand.
- 5.3. Condition 5.2 shall not apply to any supply in respect of which a full increased payment has been made under Condition 5.1 at or before the time of supply.

6. Carriage and damage or loss in transit

- 6.1. We shall:
 - 6.1.1. charge you for the delivery of the Goods to your premises; and
 - 6.1.2. insure the Goods in transit to you.
- 6.2. If any Goods having been placed in transit fail to be delivered to you, we shall either (at our option):
 - 6.2.1. (free of charge) supply such Goods; or
 - 6.2.2. credit to you the part of the price paid for any such Goods,provided that you shall, within 3 Business Days of any estimated date of delivery specified by us to you give notice to us that the Goods have not been delivered.
- 6.3. If any Goods are damaged in transit, you shall be entitled to reject such Goods and we shall either (at our option):
 - 6.3.1. (free of charge) replace such of the Goods as are damaged; or
 - 6.3.2. credit to you the part of the price paid for any such Goods,provided that:
 - (i) in the case of damage to the Goods which is apparent at delivery, you shall within 3 Business Days of delivery give notice to us that the Goods are so damaged, and in the case of damage to the Goods which is latent at delivery and you become aware of such damage within 2 Business Days from the date of delivery to you, you shall within 3 Business Days of becoming aware of such damage give notice to us that the Goods are so damaged;
 - (ii) you retain the packaging for inspection by the carriers or their insurers; and
 - (iii) you comply with any requests made by us in respect of the damaged Goods including, without

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limitation, the taking of photos of the damaged Goods and the provision to us of such photos and any other information required by us.

- 6.4. You acknowledge and agree that our liability under Conditions 6.2 and 6.3 shall be limited to the actions set out in Conditions 6.2.1 or 6.2.2, or 6.3.1 or 6.3.2 respectively and we shall not be under any other liability thereunder whatsoever.

7. **CLAIMS AND QUALITY OF THE GOODS**

- 7.1. Subject to Condition 7.3, we undertake from the date of delivery until the expiry of [twelve months] from the date of delivery to you to either (at our option):

- 7.1.1. free of charge replace any Goods which are or become defective in any way, whether such defect appears before, during or after use of the Goods; or
- 7.1.2. credit to you any part of the price paid, or to be paid, by you for any such defective Goods within 21 Business Days of being notified of such defect,

provided that:

- (i) you notify us as soon as possible and in any case within five Business Days of becoming aware of such defect specifying with reasonable detail any matter whereof it is alleged that the Goods are defective;
- (ii) the defective Goods are returned carriage paid at your risk to our premises (and section 36 of the Sale of Goods Act 1979 shall not apply) within 20 Business Days of your notification to us; and
- (iii) you quote the invoice numbers relating to such Goods when returning them to us;
- (iv) you complete all returns documentation provided and return with the defective Goods; and
- (v) the whole consignment of Goods of which the defective Goods form a part remains available for inspection by us.
- 7.2. Goods shall be defective for the purpose of condition 7.1 if they fail to comply with these Conditions or our written confirmation of the relevant order.
- 7.3. No claim will be met by us under Condition 7.1 if, in our opinion:
- 7.3.1. the defect is not due solely to defective materials or manufacture;
- 7.3.2. the goods have been misused or subjected to neglect, carelessness or abnormal conditions or involved in any accident or attempt at repair, replacement or modification or dealt with contrary to any directions issued by us; or
- 7.3.3. the terms of payment set out in condition 10 have not been complied with.

- 7.4. We may at our discretion charge you a handling charge for dealing with the returned Goods.

8. **WARRANTY**

- 8.1. We warrant that, at the time of delivery, the Goods will correspond to the description given by us.
- 8.2. Except where you are dealing as a consumer (as defined in the Unfair Contract Terms Act 1977, section 12) and otherwise to the extent permitted by law, all conditions, warranties or obligations whether express or implied by statute, common law or otherwise are excluded and the provisions of these conditions shall apply in lieu thereof.
- 8.3. The warranty contained in this Condition 8 is specifically limited to you in respect of the Goods actually manufactured or supplied by us. No warranty is made to any other person, whether subsequent buyer or user, or to any bailee, licensee, assignee, employee, agent or otherwise.
- 8.4. We give no warranty and make no representation that any sale or use by you of the Goods will be free from infringement of any patent or other intellectual property right owned or controlled by any third party.

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9. EXCLUSION OF LIABILITY

- 9.1. All descriptions, representations, specifications, samples, colours, illustrations and other particulars furnished or made orally by us or in catalogues, trade literature, price lists or other documents issued by us are given for general information purposes only and you acknowledge that you are not entering into the contract in reliance upon any such description, representation, specification, sample or other particular.
- 9.2. Except to the extent specifically provided for in these Conditions, we shall not be liable for any loss, damage or injury:
 - 9.2.1. however caused or arising (whether by our negligence or otherwise) from any defect in, failure in, or unsuitability for any purpose of, the Goods; or
 - 9.2.2. if you use the Goods in conjunction with materials that are not compatible with the Goods. We will supply a list of compatible materials on request.
- 9.3. We shall under no circumstances be liable to you, whether in contract, tort (including negligence) breach of statutory duty or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with any contract made between you and us.
- 9.4. Our total liability to you in respect of all other losses arising under or in connection with any such contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods under such contract.
- 9.5. Where the Unfair Contract Terms Act 1977 applies to the contract between you and us, nothing in these Conditions shall exclude or restrict any liability for death or personal injury resulting from our negligence, as that expression is defined in section 1 of that Act.

10. **Payment**

- 10.1. Unless otherwise agreed in writing by us and subject to Condition 10.2, payment shall be made in full and in cleared funds within 22 Business Days from the date of the invoice. Time for payment is of the essence of the contract.
- 10.2. Payment for the Goods delivered shall become due immediately if you pass a resolution for winding up, you or your directors present a petition for winding up, or an order for winding up is made, or if an administrative receiver or other receiver or manager is appointed over any of your assets.
- 10.3. If you do not pay us in full on the due date, you will lose any agreed discount and we will adjust the price of the Goods accordingly.
- 10.4. If any sums become overdue, we may (at our option and without prejudice to any other right or remedy available to us):
 - 10.4.1. suspend all further deliveries until payment in full thereof has been made; and/ or
 - 10.4.2. cancel the contract as regards any Goods which remain to be delivered thereunder; and/ or
 - 10.4.3. charge you for any reasonable and proper costs involved in recovering any debt owed to us by you.
- 10.5. You shall not be entitled to withhold payment in whole or in part on the ground that you have a claim, counterclaim or set-off against us.

11. **Delivery and risk**

- 11.1. We shall use our reasonable endeavours to deliver the Goods to the agreed address on the date indicated by us for delivery. The time for delivery shall not be of the essence and delivery dates are intended as an estimate only. We shall not be liable for any loss or damage whether arising directly or indirectly, from delay in delivery.
- 11.2. You shall make all arrangements necessary to take delivery of the Goods whenever we tender them to you. If delivery is delayed through your default or if you decline or delay in accepting delivery, then and in

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either such case we may (at our option and without prejudice to any other right or remedy available to us):

- 11.2.1. charge as part of the price of the Goods a reasonable storage fee and other costs incurred by us;
 - 11.2.2. sell the Goods for our account and/ or
 - 11.2.3. cancel the contract as regards any Goods that remain to be delivered thereunder.
- 11.3. The Goods shall be at your sole risk in respect of all loss or damage arising from any cause whatsoever as from delivery.
- 11.4. If you reject the Goods in accordance with these Conditions, then unless otherwise agreed by you and us in writing risk shall re-pass to us at the time that the Goods are returned by you to our premises.
- 11.5. We may deliver the Goods by instalments and may invoice you for each such instalment. Each instalment shall be treated as a separate contract so that failure to deliver or defect in one or more instalment shall not entitle you to reject the other instalments.
- 11.6. Each delivery shall be considered as a separate contract and the failure of any delivery shall not vitiate the contract as to others.
- 11.7. We shall be entitled to suspend a delivery of the Goods otherwise due to occur following service of a notice under Condition 13.1.3 until the earlier occurrence of:
- 11.7.1. such breach being remedied by you; or
 - 11.7.2. the termination of the relevant contract.

12. Retention of title

- 12.1. Notwithstanding delivery, the title in the Goods will remain in us and subject to the following provisions of this Condition 12 you shall hold the Goods as bailee for us until payment in full and in cleared funds of:
- 12.1.1. the full purchase price of the Goods or any other goods at any time supplied by us; and
 - 12.1.2. all other sums due from you to us on any account whatsoever.
- 12.2. Until title in the Goods passes to you in accordance with condition 12.1:
- 12.2.1. you shall (at no cost to us):
 - 12.2.1.1. keep the Goods in good condition;
 - 12.2.1.2. store the Goods in such a way that they are readily identifiable as our property; and
 - 12.2.1.3. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 12.2.2. [if you sell the Goods to any third party you shall, as between you and such third party, sell as principal but, as between you and us, you shall sell as our fiduciary agent;]
 - 12.2.3. [you shall:
 - 12.2.3.1. hold such part of the proceeds of sale of the Goods as equates to the aggregate amount due from you to us on any account whatsoever separate and for our account and not mix such proceeds with other money or pay them into any overdrawn bank account; or
 - 12.2.3.2. if we so require, authorise and direct such third party to pay to us a like part of the sum due to you in respect of the Goods so sold and assign to us such part of the debt owed to you by such third party;]
 - 12.2.4. you shall not attach the Goods to buildings, structures or land so as to become a fixture without

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our prior written consent;

12.2.5. If you attach the Goods to or incorporate them into or mix them with any other goods, products, materials or substances of any kind whatsoever or uses them in any manufacturing process or otherwise, the title in the new goods, product, material or substance shall vest in us in the proportion of the value of the Goods to the other constituent elements;

12.2.6. you shall keep the Goods fully insured with a reputable insurance company against all risks for their full price from the date of delivery and provide us with a copy of such policy of insurance on request. If the Goods are lost, damaged or destroyed you shall hold the proceeds of insurance for and to our order; and

12.2.7. we shall be entitled:

12.2.7.1. at any time without notice inspect or recover possession of the Goods which are our property and you grant to us an irrevocable licence to enter for that purpose any premises then occupied by you; and

12.2.7.2. to maintain an action for the price of the Goods, notwithstanding that the title in them has not passed to you.

12.3. If you reject the Goods in accordance with these Conditions, then unless otherwise agreed by you and us in writing:

12.3.1. where payment has not been received by us in accordance with Condition 10, title shall remain with us;

12.3.2. where payment has been received by us in accordance with Condition 10, title shall re-pass to us when the amount paid for the rejected Goods has been credited to you.

13. Termination

13.1. We shall have the right to cancel all or any contracts with you or withhold delivery of any Goods if you:

13.1.1. fail to pay any monies owing to us by the due date;

13.1.2. commits a material breach which is incapable of remedy of any of the provisions of these Conditions;

13.1.3. commits a material breach which is capable of remedy of any of the provisions of these Conditions and you have failed to remedy such breach within 7 Business Days of the date of receipt from us of a notice specifying the breach and requiring it to be remedied;

13.1.4. becomes subject to any voluntary arrangement, are unable to pay your debts within the meaning of Section 123 of the Insolvency Act 1986, have a receiver, manager, administrator or administrative receiver appointed over your assets, undertakings or income, have passed a resolution for your winding-up, or have a petition presented to any Court for your winding-up or for an administration order or suffer any similar or analogous proceedings in any jurisdiction;

13.1.5. have any distraint, execution or other process levied or enforced on any of your property;

13.1.6. are dissolved or cease or threaten to cease to trade; or

13.1.7. bring our reputation into serious disrepute or otherwise cause us to suffer material adverse publicity and following receipt from us of a notice informing you that this is the case, you have failed to remedy the matter, event or circumstance which caused or resulted in such serious disrepute or material adverse publicity within 22 Business Days of the date of such notice.

13.2. Termination of any contract between you and us howsoever arising shall not affect any of the rights, remedies obligations and liabilities of either you or us that have accrued as at termination and Conditions 9, 12, and 22 will continue to be enforceable notwithstanding termination.

13.3. Termination: Except to the extent prohibited by English Law: In writing 7 days before scheduled delivery date. The customer shall (to the extent not already done so, in accordance with any Payment Schedule) pay the supplier the outstanding proportion of the purchase price, less any cost savings the supplier can

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recover by reason of the early termination of the contract.

14. Intellectual Property

- 14.1. Except as otherwise agreed in writing by us, you shall have no rights in respect of any intellectual property rights used by us in relation to the Goods or the associated goodwill.
- 14.2. You shall not:
- 14.2.1. use in relation to the Goods any trade marks or names other than our trade marks without obtaining our prior written approval;
 - 14.2.2. use any trade marks or names so resembling our trade marks as to be likely to deceive or cause confusion;
 - 14.2.3. make any modifications to the Goods or their packaging;
 - 14.2.4. alter, remove or tamper with any trade marks, numbers or other means of identification used on or in relation to the Goods; or
 - 14.2.5. apply to register any of our intellectual property rights nor any trade marks or trade names so nearly resembling our trade marks as to be likely to deceive or cause confusion.
- 14.3. You shall immediately inform us on becoming aware of:
- 14.3.1. any relevant fact which may affect our intellectual property rights or reputation or cause us to suffer material adverse publicity;
 - 14.3.2. any counterfeit of the Goods; and
 - 14.3.3. any infringement of our intellectual property rights.
- 14.4. You shall not acquire or be entitled to claim any right, title or interest to our trade marks or trade name by virtue of the rights granted in these Conditions.

15. Confidentiality

- 15.1. Each of you and we undertake that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, including in relation to these Conditions and any contract between you and us, except as permitted by Condition 15.2.
- 15.2. Each of you and we may disclose the other party's confidential information:
- 15.2.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these Conditions. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Condition 15.2; and
 - 15.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 15.3. Neither you nor we shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with these Conditions.

16. Waiver

- 16.1. None of the provisions of these Conditions shall be deemed to have been waived by any act or acquiescence, but only by an instrument in writing. No waiver of any provision of these Conditions shall constitute a waiver of any other provision(s) or of the same provision on another occasion.

17. Assignment

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- 17.1. You shall not assign or transfer or purport to assign or transfer any contract to which these Conditions apply or the benefit thereof to any other person.

18. Severance

- 18.1. If any Condition or part of any Condition shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other Condition or part of any Condition all of which shall remain in full force and effect.

19. Contracts (Rights of Third Parties) Act

- 19.1. A person who is not a party to a contract of which these Conditions form part has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of such contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

20. Notices

- 20.1. Any notice required or authorised to be given under these Conditions shall be in writing and may be served:

20.1.1. by first class recorded delivery post; or

20.1.2. by email.

- 20.2. In proving service of any notice under these Conditions it shall be sufficient to prove:

20.2.1. in the case of a notice sent by recorded delivery post, that the envelope containing the notice was properly addressed to the address last known to the party giving the notice; and

20.2.2. in the case of a notice sent by email, that the notice was successfully transmitted to the email address as the recipient may designate from time to time by notice given in accordance with the provisions of this Condition 20.

- 20.3. Notices shall be deemed served:

20.3.1. in the case of a notice sent by recorded delivery post, on the fourth Business Day following the day of posting;

20.3.2. in the case of a notice sent by email, one hour after transmission, or if not sent on a Business Day, on the next Business Day.

21. Force majeure

- 21.1. We reserve the right to:

21.1.1. defer the date of delivery;

21.1.2. cancel the contract; or

21.1.3. reduce the volume of the Goods ordered by you (without liability to you),

if we are prevented from or delayed in producing, acquiring or effecting deliveries of the Goods or any of them due to a Force Majeure Event (as defined in Condition 21.3) provided that, if the Force Majeure Event in question continues for a continuous period of 10 Business Days, you shall be entitled to give not less than 5 Business Days' notice in writing to us to terminate the contract and in such circumstances you shall pay for all Goods supplied to the date of such termination, such payment to be made on or before the last day of the month following the month during which termination was effected.

- 21.2. If we are prevented from delivering part of the Goods by reason of a Force Majeure Event, we shall deliver and you shall take and pay for such part of the Goods as we shall be able to deliver in accordance with the contract. We shall be entitled to deliver the Goods in one or more consignments unless otherwise expressly agreed.

- 21.3. A "**Force Majeure Event**" means any event beyond our reasonable control including, without limitation, strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure

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of energy sources or transport network, insurrection, acts of God, war, terrorism, riot, hostilities, warlike operations, civil commotion, interference by civil or military authorities, piracy, arrests, restraints or detentions of any competent authority, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, droughts, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

- 21.4. If we have contracted to provide identical or similar goods to more than one buyer and we are prevented from fully meeting our obligations by reason of any of the causes mentioned in Condition 21.3, we may at our discretion determine which contracts we shall honour and to what extent.

22. Applicable law and jurisdiction

- 22.1. These Conditions and any contract between you and us shall be governed by and construed in accordance with the law of England and Wales.
- 22.2. The courts of England and Wales shall have exclusive jurisdiction in respect of any claim or matter arising out of or in connection with these Conditions and any contract between you and us and that accordingly any proceedings in respect of any such claim or matter shall be brought in such courts, save that we may take action in any other jurisdiction.