

GENERAL TERMS AND CONDITIONS OF SALE OF FOODLINK B.V.

Foodlink B.V., Kerketuinenweg 35, 2544 CV Den Haag, the Netherlands

Supplier (as defined below) hereby expressly rejects the applicability of any general conditions of Purchaser (as defined below).
These General Terms and Conditions of Sale contain limitations or exclusions of liability.

1. General

- 1.1. These General Terms and Conditions of Sale (“Conditions”) govern the offering, sale and delivery of all goods and/or services (the goods and services herein both separately and jointly referred to as: the “Goods”) from or on behalf of Foodlink B.V. (“Supplier”) to customer (“Purchaser”) and apply to all similar dealings between Supplier and Purchaser.
- 1.2. These Conditions supersede any and all prior oral and written quotations, communications, agreements and understandings of the parties in respect of the sale and delivery of the Goods and shall apply in preference to and supersede any and all terms and conditions submitted by Purchaser. Failure of Supplier to object to terms and conditions set by Purchaser shall in no event be construed as an acceptance of any terms and conditions of Purchaser. Neither Supplier’s commencement of performance nor Supplier’s delivery shall be deemed or constituted as acceptance of any of Purchaser’s terms and conditions. If these Conditions differ from any terms and conditions of Purchaser, these Conditions and any subsequent communication or conduct by or on behalf of Supplier, including, without limitation, confirmation of an order and delivery of Goods, constitutes a counter-offer and not acceptance of such terms and conditions submitted by Purchaser. Any communication or conduct of Purchaser which confirms an agreement for the delivery of Goods by Supplier, as well as acceptance by Purchaser of any delivery of Goods from Supplier shall constitute an unqualified acceptance by Purchaser of these Conditions.
- 1.3. These Conditions may only be varied or waived by a duly executed written agreement between Supplier and Purchaser.
- 1.4. By contracting on the basis of these Conditions, Purchaser agrees to the applicability thereof in respect of future dealings as described in **Article 1.1**, even if this is not expressly stated.
- 1.5. Any electronic communication between Supplier and Purchaser shall be considered to be a “writing” and/or “in writing”. The electronic communication system used by Supplier will serve as sole proof for the content and the time of delivery and receipt of such electronic communication.

2. Quotations, orders and confirmation

- 2.1. Quotations, made by Supplier in whatever form, are not binding upon Supplier and merely constitute an invitation to Purchaser to place an order. All quotations issued by Supplier are revocable. Orders are not binding until accepted by Supplier in writing (“Supplier’s Confirmation”). Supplier shall be entitled to refuse an order without indication of its reasons.
- 2.2. Pictures, drawings, weights, sizes, figures, samples and (technical) specifications are indications only and are non-binding, unless explicitly indicated otherwise.

- 2.3. Quotations and related documents submitted by Supplier to Purchaser may not be disclosed in any way to third parties.
- 2.4. Price quotations based on estimated or projected quantities are subject to increase in the event that actual quantities purchased during the specified period are less than the estimated or projected quantities.
- 2.5. Statements and agreements made by Supplier's employees, officers, representatives and/or agents are not binding upon Supplier unless, and only to the extent that, these are confirmed or made in writing by duly authorized representative(s) of Supplier.
- 2.6. Each delivery shall stand as a separate transaction and any failure to deliver shall have no consequences for other deliveries.
- 2.7. In case of deviation between an order by Purchaser and Supplier's Confirmation, the contents of Supplier's Confirmation will prevail. Of course Supplier will do the utmost to prevent obscurities concerning the order from happening.

3. **Prices**

- 3.1. Prices and currencies of Supplier's Goods are as set out in Supplier's Confirmation. Unless agreed otherwise, Supplier's prices are in EURO and based upon delivery Ex Works Supplier's warehouse of (Rotterdam, the Netherlands) in compliance with INCOTERMS, as stated in **Article 5.1**.

4. **Payment and Purchaser's credit**

- 4.1. Unless expressly stated otherwise in Supplier's Confirmation and without prejudice to Supplier's right to at all times demand advance payment or to furnish adequate security, payment shall be made on the basis of net cash, to be received by Supplier within fourteen (14) calendar days following the date of Supplier's invoice for the Goods by means of transfer into the bank account mentioned on the invoice. All payments shall be made without any deduction on account of any Taxes and free of set-off or other counterclaims.
- 4.2. In the event of expiration of the term of payment, the Purchaser shall be in default, without any further proof of default or summons being required, and shall be immediately liable for the commercial statutory interest as referred to in article 6: 119a of the Dutch Civil Code, to be calculated over the outstanding amount from the due date computed on a daily basis until all amounts outstanding are paid in full. All costs and expenses incurred by Supplier with respect to collection of overdue payments (including, without limitation, reasonable attorney's fees, expert fees, court costs and other expenses of litigation) shall be for Purchaser's account.
- 4.3. In case of payment in instalments, any expiry of payment terms will cause the total outstanding amount to be due immediately, without any further notification being required to be given.
- 4.4. Every payment by Purchaser shall in the first place serve to pay the judicial and extra-judicial costs and the interest owed by it and afterwards shall be deducted from the oldest outstanding claim regardless of contrary advice from Purchaser.
- 4.5. Any complaint with respect to the invoice must be notified to Supplier within seven (7) calendar days after the date of invoice. Thereafter Purchaser shall be deemed to have approved the invoice.

5. Delivery and acceptance

- 5.1. Unless expressly stated otherwise in Supplier's Confirmation, all deliveries of Goods shall be Ex Works Supplier's warehouse (Rotterdam, the Netherlands). The term Ex Works shall have the meaning set forth in the latest version of INCOTERMS published by the International Chamber of Commerce at Paris, France, at the time of Supplier's Confirmation. Purchaser shall accept the Goods upon delivery.
- 5.2. The agreed term for delivery commences on the day all order documents are properly received by Supplier and (if relevant) Purchaser submitted all required documents, specifications and (if agreed), Supplier received advance payments from Purchaser.
- 5.3. Unless expressly stated otherwise in Supplier's Confirmation, any times or dates for delivery by Supplier are estimates and shall never be regarded as a strict deadline. Supplier is entitled to deliver the Goods as stated in Supplier's Confirmation in parts and to invoice separately. In no event shall Supplier be liable for any delay in delivery. Delay in delivery of any Goods shall not relieve Purchaser of its obligation to accept delivery thereof. Deviations in quantity of Goods delivered from that stated in Supplier's Confirmation shall not give Purchaser the right not to accept the Goods. Purchaser shall be obligated to pay the rate specified in Supplier's Confirmation for the quantity of the Goods delivered and to take possession of the Goods within fourteen (14) days after delivery.
- 5.4. In case of delay in payment or any other relevant obligation by Purchaser, agreed delivery terms may be postponed accordingly.

6. Cancellation and/or alteration

- 6.1. Cancellation and/or alteration of the order, for whatever reason, requires written approval and confirmation by Supplier.
- 6.2. All (extra or fewer) costs that result from cancellation and/or alteration of the order will be set-off and/or charged to Purchaser respectively.
- 6.3. Purchaser's wrongful non-acceptance or rejection of Goods or cancellation or repudiation of Supplier's Confirmation shall entitle Supplier to recover from Purchaser, in addition to any other damages caused by such action:
- (i) in the case of Goods which reasonably cannot be resold by Supplier to a third party, the price of such Goods; or
- (ii) in the case of Goods which can be resold by Supplier or where an action for the price is not otherwise permitted by law, damages equal to fifty percent (50%) of the price for the Goods as liquidated damages.

7. Examination and conformity to specifications

- 7.1. On delivery and during the handling, use, processing, transportation, storage and sale of the Goods (the "Use"), Purchaser shall examine the Goods and satisfy itself that the Goods delivered meet all contractual requirements.
- 7.2. Complaints about the Goods shall be made in writing and must reach Supplier not later than fourteen(14) calendar days from the date of delivery in respect of any defect, default or shortage which would be apparent from a reasonable inspection on delivery, and fourteen (14) calendar days from the date on which any other claim was or ought to have been apparent, but in no event later than three (3) months from the date of delivery of the Goods. Use or processing of the Goods shall be deemed to be an unconditional acceptance of the Goods and a waiver of all

claims in respect of the Goods.

- 7.3. A determination of whether or not delivered Goods conform to the agreed specifications for the Goods as stated in Supplier's Confirmation or, in the absence of agreed specifications, to the most recent specifications held by Supplier at the time of delivery of the Goods (the "Specifications"), shall be done solely by analysing the samples or records retained by Supplier and taken from the batches or production runs in which the Goods were produced in accordance with generally accepted and certified methods of analysis. Goods that Supplier consents or directs in writing to be returned shall be returned to Supplier at the risk of Purchaser, to the destination directed by Supplier.
- 7.4. Defects in parts of the Goods stated in Supplier's Confirmation do not entitle Purchaser to reject the entire delivery of the Goods. Complaints, if any, do not affect Purchaser's obligation to pay as defined in **Article 4**. Upon receipt of a notice of defect, Supplier is entitled to suspend all further deliveries until the complaints are established to be unfounded and/or refuted or until the defect has been totally cured.
- 7.5. Any costs or expenses incurred by Supplier as a result of delay or obstruction of examination procedures may be charged to Purchaser and Supplier will not be liable for any delay in delivery of the Goods caused as a result of delay or obstruction of inspection procedures.
- 7.6. Supplier will not be liable for direct or indirect damages to any object (including buildings, ships, tools, equipment or the Goods) or for damages or injury caused to any person (including employees or (sub) contractors (and/or their employees) of Purchaser) caused during examination of the Goods by Purchaser or any third party, unless such damages or injury are a direct result of gross negligence or wilful misconduct of Supplier.

8. **Transfer of risk and property**

- 8.1. The risk of the Goods, including loss and/or damage of the Goods and direct or indirect damage to third parties, shall pass to Purchaser on delivery.
- 8.2. Goods for which delivery is suspended pending payment by Purchaser, as well as Goods of which delivery is wrongfully rejected or not accepted by Purchaser, shall be held and stored by Supplier at the risk and expense of Purchaser.
- 8.3. Any Goods sold and delivered by Supplier to Purchaser shall remain property of the Supplier, until the full purchase price and/or all other payment obligations of Purchaser relating to the Goods are fully and unconditionally received by Supplier, including all secondary costs such as interest, charges, expenses etcetera.
- 8.4. In the event of termination on the basis of **Article 16** of these Conditions, Supplier shall, without prejudice to any other rights of Supplier, be entitled to require immediate re-delivery of the Goods for which it may invoke a retention of title.
- 8.5. Until all payments have been completed, Purchaser is entitled to use the Goods solely to the extent required in its ordinary course of business, and, to the extent possible, shall:
- (i) keep the Goods separate and in a clearly identifiable manner;
 - (ii) notify Supplier immediately of any claims by third parties which may affect the Goods; and

(iii) adequately insure the Goods.

8.6. Purchaser may not vest any security rights on the Goods subject to retention of title.

8.7. Of all the Goods delivered by Supplier to Purchaser that have become property of the Purchaser, Supplier acquires the rights of lien as referred to in article 3:237 Dutch Civil Code to secure all claims for payment of Supplier.

8.8. Purchaser will immediately notify Supplier of any claims by third parties on the Goods that are (at that time) subject to retention of title by Supplier, failing which Purchaser will be liable for all damages suffered by Supplier as a consequence of non- or late notification.

9. **Limited warranty**

9.1. Supplier solely warrants that on the date of delivery the Goods shall conform to the Specifications. If and to the extent the Goods fail to meet such warranty, as shall be determined in accordance with the provisions of **Article 7** of these Conditions, Supplier may at its own option within a reasonable time either repair or replace the Goods at no charge to Purchaser, or issue a credit for any such Goods in the amount of the original invoice price. Accordingly, Supplier's obligations shall be limited solely to repair or replacement of the Goods or for credit of the Goods.

9.2. Supplier's obligation to repair, replace, or credit shall be contingent upon receipt by Supplier of timely notice of any alleged non-conformance of the Goods and, if applicable, the return of the Goods, in accordance with **Article 7** of these Conditions. The foregoing warranty is exclusive and in lieu of all other warranties, representations, conditions or other terms, express, implied, statutory, contractually or otherwise, including, without limitation, any warranty of merchantability, suitability or fitness for any purpose, or absence of infringement of any claim in any intellectual property right covering the Goods.

10. **Limitation of liability, indemnity**

10.1. If the execution of any agreement by Supplier leads to any liability such liability is limited to the sum paid out in the relevant case under the liability insurance of Supplier to be increased, where applicable, by the amount of the excess that comes for the account of Supplier under the relevant liability insurance in the specific case.

10.2. If for whatever reason no payment within the meaning of **Article 10.1** is made, the liability of Supplier for any and all claims for damages arising out of or in connection with the Goods and the Use thereof shall under no circumstances exceed the sum of Purchaser's payments for the Goods that are the subject of the claim.

10.3. Under no circumstances shall Supplier be liable to Purchaser or any other person for any kind of special, incidental, indirect, consequential or punitive damage or loss, cost or expense, including without limitation, damage based upon goodwill, lost sales or profits, work stoppage, production failure, impairment of other goods or otherwise, and whether arising out of or in connection with breach of warranty, breach of contract, misrepresentation, negligence or otherwise.

10.4. Purchaser shall indemnify and hold Supplier harmless from and against any and all damage, losses, costs, expenses, claims, demands and liabilities arising out of or in connection with the Goods, Purchaser's Use thereof and/or Purchaser's use or application of any information disclosed or provided by or on behalf of Supplier.

10.5. The provisions on limitation of liability under this article do not apply in cases of damages caused by gross negligence or wilful misconduct of Supplier (and/or its employees and/or other representatives).

11. Force majeure

11.1. Neither party shall be liable in any way for any damage, loss, cost or expense arising out of or in connection with any delay, restriction, interference or failure in performing any obligation towards the other party caused by any circumstance beyond its reasonable control, including, without limitation, acts of God, laws, statutes, ordinances, regulations, legislative measures, acts of governments or other administrative measures, orders or decrees of any court, earthquake, flood, fire, explosion, war, terrorism, riot, sabotage, accident, epidemic, strike, lockout, slowdown, labour disturbances, difficulty in obtaining necessary labour or raw materials, lack of or failure of transportation, breakdown of plant or essential machinery, emergency repair or maintenance, breakdown or shortage of utilities, delay in delivery or defects in goods supplied by suppliers or subcontractors ("Force Majeure").

11.2. Upon the occurrence of any event of Force Majeure, the party suffering thereby shall promptly inform the other party by written notice thereof specifying the cause of the event and how it will affect its performance of its obligations under Supplier's Confirmation. In the event of any delay, the obligation to deliver shall be suspended for a period equal to the time loss by reason of Force Majeure. However, should a Force Majeure event continue or be expected to continue for a period extending to more than one (1) month after the agreed delivery date, either Party is entitled to cancel the affected part of Supplier's Confirmation without any liability to the other Party.

11.3. Complimentary to the aforementioned provisions of this article, Force Majeure shall include the loss of harvest by any cause.

11.4. Within the meaning of this article, Supplier is entitled to call for suspension of its obligations and/or commitments on the basis of Force Majeure, in case Force Majeure occurs while the Supplier was in default.

11.5. If the Supplier has performed part of its obligations when the situation of Force Majeure arises or if it can only perform part of its obligations, it shall be entitled to separately invoice the Purchaser for the partial performance and the Purchaser shall be obliged to pay such an invoice as if it concerned a separate agreement.

12. Modifications and information

12.1. Unless the Specifications have been agreed to be firm for a certain period or quantity of the Goods, Supplier reserves the right to change or modify the Specifications of the Goods and to substitute materials used in the production and/or manufacture of the Goods from time to time. Purchaser acknowledges that data in Supplier's catalogues, sheets and other descriptive publications distributed or published on its websites by Supplier, may accordingly be varied from time to time without notice. Any statement, representation, recommendation, advice, sample or other information of Supplier in relation to the Specifications, the Goods and the Use thereof shall be furnished for the accommodation of Purchaser only.

12.2. Purchaser must utilise and solely rely on its own expertise, know-how and judgement in relation to the Goods and Purchaser's Use thereof and in Purchaser's application of any information obtained from the part of Supplier for the purposes intended by Purchaser. Consultation provided by Supplier shall not give rise to any additional obligations. Details and information provided with regard to the suitability and Use of the Goods shall not be binding and Supplier does not assume any liability based on such consultations.

13. Compliance with laws and standards

- 13.1. Supplier ensures that the Goods shall conform to law, statute ordinance, regulation, code or standard ("Laws and Standards") insofar the EU Laws and Standards are concerned and applicable, unless expressly stated in Supplier's Confirmation or in the Specifications.
- 13.2. Supplier makes no promise or representation that the Goods shall conform to any law, statute ordinance, regulation, code or standard ("Laws and Standards") outside of the EU, unless expressly stated in Supplier's Confirmation or in the Specifications. Purchaser acknowledges that the Use of the Goods may be subject to requirements or limitations under international Laws and Standards outside of the EU. Purchaser shall be exclusively responsible for (i) ensuring compliance with all international Laws and Standards associated with its intended Use of the Goods; and (ii) obtaining all necessary approvals, permits or clearances for such Use.

14. Independent contractors

- 14.1. Supplier and Purchaser are independent contractors, and the relationship created hereby shall not be deemed to be that of principal or agent. No sale to or obligation of either party towards a third party shall in any way bind the other party.

15. Non-assignment

- 15.1. Neither party may assign any of the rights or obligations under Supplier's Confirmation without the prior written consent of the other party, provided however, that Supplier may assign such rights and obligations, wholly or partly, to any of its parent companies, subsidiaries or affiliates or to a third party acquiring all or a substantial part of Supplier's assets or business relating to the Goods.

16. Suspension and termination

- 16.1. If (a) Purchaser is in default of performance of its obligations towards Supplier, or (b) if Supplier has reasonable doubts with respect to Purchaser's performance of its obligations to Supplier and Purchaser fails to provide to Supplier adequate assurance of Purchaser's performance before the date of scheduled delivery and in any case within thirty (30) days of Supplier's demand for such assurance; or if Purchaser becomes insolvent or unable to pay its debts as they mature, or goes into liquidation (otherwise than for the purposes of a reconstruction or amalgamation) or any bankruptcy proceeding shall be instituted by or against Purchaser or if a trustee or receiver or administrator is appointed for all or a substantial part of the assets of Purchaser or if Purchaser enters into a deed of arrangement or makes any assignment for the benefit of its creditors, then, without prejudice to any other rights of Supplier, Supplier may by notice in writing forthwith:
- (i) demand re-delivery and take repossession of any delivered Goods which have not been paid for, for which purpose Purchaser hereby grants an irrevocable right and licence to Supplier to enter upon all or any of the premises where the Goods are or may be located and all costs relating to the recovery of the Goods shall be for the account of Purchaser; and/or
- (ii) suspend its performance or terminate Supplier's Confirmation for outstanding delivery of Goods unless Purchaser makes such payment for Goods on a cash in advance basis or provides adequate assurance of such payment for Goods to Supplier; without any intervention of courts being required and without liability for Supplier of whatsoever kind arising out of or in connection with such suspension or termination.

16.2. In any such event of (i) and/or (ii), all outstanding claims of Supplier shall become due and payable immediately with respect to the Goods delivered to Purchaser and not re-possessed by Supplier.

16.3. Upon the termination of an agreement, Purchaser shall return to Supplier all written or otherwise tangible Confidential Information and any other information, including any copy or any tangible reproduction thereof, or if Supplier directs it to do so, destroy written or otherwise tangible Confidential Information and any other information and to provide Supplier with certification of such destruction.

16.4. Upon the termination of an agreement, Supplier is not obligated to enter into any further agreement or renewal or to negotiate any renewal or otherwise to continue any relationship whatsoever. Acts performed by Supplier after termination of an agreement may not be interpreted as an implied renewal of the agreement unless explicitly stated otherwise in writing by Supplier. Supplier waives any claim for loss or damage of any kind because of failure of the Parties for whatever reason to renew the agreement.

17. Waiver

17.1. Failure by Supplier to enforce at any time any provision of these Conditions shall not be construed as a waiver of Supplier's right to act or to enforce any such term or condition and Supplier's rights shall not be affected by any delay, failure or omission to enforce any such provision. No waiver by Supplier of any breach of Purchaser's obligations shall constitute a waiver of any other prior or subsequent breach.

18. Severability and conversion

18.1. In the event that any provision of these Conditions shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever, the validity or enforceability of the remaining provisions between the parties and shall be severed there from. The pertaining provisions held to be invalid or unenforceable shall be reformed to provisions satisfying the legal and economic intent of the original provisions to the maximum extent permitted by law.

19. Limitation of action

19.1. No action by Purchaser shall be brought unless Purchaser first provides written notice to Supplier of any claim alleged to exist against Supplier within thirty (30) days after the event complained of first becomes known to Purchaser and an action is commenced by Purchaser within twelve (12) months after such notice.

20. Governing law and jurisdiction

20.1. The parties' rights and obligations arising out of or in connection with Supplier's Confirmation and/or these Conditions shall be governed, construed, interpreted and enforced according to the laws of the Netherlands, excluding principles of conflict of laws. The applicability of the Convention on International Sales of Goods 1980 ('*Weens Koopverdrag*') is excluded.

20.2. The parties agree that any suits, actions or proceedings that may be instituted by any party shall be initiated exclusively before the courts of Rotterdam (the Netherlands) without prejudice to Supplier's right to submit the relevant case to the court which would have jurisdiction if this provision has not been incorporated in the Conditions, and the parties do hereby consent to the jurisdiction of those courts and waive any objection which they may have, now or hereafter, to venue of those suits, actions or proceedings.

20.3. The previous provision of this **Article 20** is without prejudice to each Party's right to seek an interim judgment by means of a provisional arrangement ('*voorlopige voorziening*') before the president of the courts of Rotterdam (the Netherlands) without prejudice to Supplier's right to submit the relevant case to the court which would have jurisdiction if this provision has not been incorporated in the Conditions, and the parties do hereby consent to the jurisdiction of those courts and waive any objection which they may have, now or hereafter, to venue of those suits, actions or proceedings.

21. **Survival of rights**

21.1. The parties' rights and obligations shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, directors, officers, employees, agents and legal representatives. Termination of one or more of the rights and obligations of the parties, for whatsoever reason, shall not affect the provisions of these Conditions which are intended to continue to have effect after such termination.

22. **Headings**

22.1. The headings contained in these Conditions are included for mere convenience of reference and shall not affect their construction or interpretation.

23. **Intellectual Property**

23.1. All intellectual property rights arising out of or in connection with the Goods shall be the exclusive property of Supplier.

23.2. Supplier has not verified the possible existence of third party intellectual property rights which might be infringed as a consequence of the sale and/delivery of the Goods and Supplier shall not be held liable for any loss or damages in that respect.

23.3. The sale of Goods shall not, by implication or otherwise, convey any license under any intellectual property right relating to the compositions and/or applications of the Goods, and Purchaser expressly assumes all risks of any intellectual property infringement by reason of its importation and/or Use of the Goods, whether singly or in combination with other materials or in any processing operation.

These Conditions have been filed at the office of the Trade Register of the Chamber of Commerce for Rotterdam, The Netherlands, file number 01062850

These conditions are applicable with effect from February 1st 2012. The current version of these Conditions can be found at www.foodlink.nl

Only the English version of these Conditions shall be authentic and shall prevail, in case of inconsistency, over any translation of these Conditions in another language.