

## GENERAL TERMS AND CONDITIONS OF SALE OF: EUROFOODLINK B.V. AT BREDA

### Article 1: Scope of the general terms and conditions

1. These general terms and conditions of sale are applicable in all cases in which EuroFoodLink B.V., based at Breda – hereinafter: “EuroFoodLink” –, concludes agreements with its customers – hereinafter “buyer” – irrespective of the nature of the performance (including services rendered) by EuroFoodLink and to any statements (including quotations and requests for quotations) made by parties in this connection.
2. The provisions in these general terms and conditions are applicable without prejudice to the right of EuroFoodLink to exercise any further rights that are not described here but that are assigned to it by law or treaty.
3. These general terms and conditions may be invoked by any party whose services are enlisted by EuroFoodLink in connection with the fulfilment of the agreement.

### Article 2: The creation of an agreement

1. Unless stated otherwise all quotations of EuroFoodLink are without obligation. EuroFoodLink has the right to withdraw a no-obligation quotation during three working days after receipt of acceptance.
2. Unless the buyer notifies EuroFoodLink in writing and within 48 hours of receipt of the order confirmation that it does not accept the order and/or these general terms and conditions, the order and these general terms and conditions are deemed to have been accepted.
3. The (prospective) buyer bears the risk of any incorrect transfer of data if said transfer takes place orally.

### Article 3: Prices The agreed prices are exclusive of sales tax.

Unless provisions to the contrary are agreed upon, the buyer is liable to pay any import duties, taxes and levies, including levies imposed by the European Union.

### Article 4: The content of the agreement

1. Any documentation, illustrations, samples or models presented or provided by EuroFoodLink to the buyer are presented or provided for indicative purposes only and need not correspond with the deliverable item, unless and only to the extent that parties have expressly agreed to the contrary.
2. The deliverable item meets the terms of the agreement if it corresponds with the specifications that EuroFoodLink has agreed upon with its buyer. Where no specifications have been agreed upon, the deliverable item must meet the norms that are customary in the trade in relation to said item; this is always the case if said item meets the statutory quality requirements applicable in the country of production at the time of concluding the agreement. EuroFoodLink has the right to supply an item with a different origin if its quality is equal to or better than the agreed quality.
3. Weight loss due to refrigeration or freezing is not deemed to be a shortcoming if the weight loss amounts to no more than five (5) per cent. Unless agreed otherwise, weight loss can exclusively be demonstrated by buyer by means of an official weight slip indicating that weighing took place on a properly functioning, public weighbridge on or immediately after delivery.

### Article 5: Delivery

1. Unless the contrary has been expressly agreed, delivery always takes place EXW (Ex Works) at the agreed place of transfer. The version of Incoterms applicable at the time of the transaction is applicable in all cases.
2. The buyer is obliged vis-à-vis EuroFoodLink to take immediate delivery of the purchased item as soon as said item is delivered to him. If buyer does not take delivery, the item will be considered to have been delivered at the time that the item was offered by EuroFoodLink who will keep said item from that moment in its custody for buyer's account and risk. In this case EuroFoodLink also has the right to invoice the buyer.
3. Agreed terms of delivery apply by approximation – even if a specific end date or term has been agreed upon – and are not binding unless the contrary is expressly agreed. In the case of non-timely delivery, EuroFoodLink must be sent a written declaration of default in which EuroFoodLink is granted a

reasonable term, to be determined after consultation, during which it has a further opportunity to fulfil the agreement.

4. EuroFoodLink has the right to deliver the purchased items in partial consignments.

### Article 6: Retention of title and pledge

1. All deliveries take place subject to retention of title. EuroFoodLink retains the title to the items delivered and to be delivered to the buyer pursuant to the agreement until the buyer:
  - a. has paid the price of all these items plus any payable interest and costs in full and,
  - b. has paid all receivables relating to any work that EuroFoodLink has performed or shall perform on its behalf in connection with the agreements in question, and,
  - c. has paid any claims that EuroFoodLink shall obtain vis-à-vis buyer should the latter fail to fulfil any of the obligations mentioned above.
2. Buyer may not provide any item that is subject to retention of title as security for any receivables other than those of EuroFoodLink.
3. Buyer shall separately store and/or clearly mark the item that is subject to retention of title.
4. If EuroFoodLink wishes to demand the return of the item, buyer shall fully cooperate and grant EuroFoodLink access to its storage place at all times.
5. Parties agree that a right of pledge will be established on behalf of EuroFoodLink on moveable –non-registered – property that EuroFoodLink may receive in its possession by way of security for the payment of any receivables that EuroFoodLink may have on whatever grounds vis-à-vis the buyer. The right of pledge also applies as security for any sufficiently determinable receivables that EuroFoodLink may obtain in the future vis-à-vis the buyer. The right of pledge shall be created without further formalities at the time that EuroFoodLink receives possession of the item in question.
6. If any third party claims any entitlement to or in relation to an item subject to retention of title or to a right of pledge as referred to in the preceding paragraph, the buyer is obliged to notify that third party of the right of EuroFoodLink, and to inform EuroFoodLink without delay.
7. If a third party holds possession on the buyer's behalf of an item subject to retention of title, then the buyer is obliged, in the event of any failure to meet its obligations to EuroFoodLink, to inform EuroFoodLink on request of said third party's name and address and EuroFoodLink has the right to notify said party that the item in question must henceforth be held on its behalf.

### Article 7: Inspection and complaints

1. If the purchased item is collected by or on behalf of the buyer, the latter is obliged to have the quantity and external condition of the purchased items inspected at the place of collection.
2. The purchased items must be fully inspected by the buyer within 48 hours of delivery. If however delivery takes place on the basis of CIF, CFR, CIP or CPT (Incoterms), then the buyer is only required to have the purchased items fully inspected within 48 hours of arrival at the agreed place of destination.
3. If the inspection leads the buyer to the opinion that the purchased items fail to meet the agreement it must inform EuroFoodLink of the substance of the complaint in writing within 48 hours of the end of the term mentioned in paragraph 2. In addition, the buyer is obliged to report the complaint by telephone to EuroFoodLink as soon as possible but no later than 24 hours after the end of the term mentioned in paragraph 2. The buyer is obliged to fully co-operate with EuroFoodLink so that the items being complained about can be inspected by it or on its behalf at any time that it may require. EuroFoodLink also has the right, in the event of a complaint, to require the buyer to have an inspection report drawn up without delay by an independent expert and, in addition, to demand that the buyer returns the purchased items to it without delay, at the expense of the party who is found to be in the wrong, in which case the buyer is entitled to retain a representative sample.
4. Buyer may only return items to EuroFoodLink with the prior permission of EuroFoodLink. Unless agreed otherwise, items are



returned at the buyer's cost and are transported at the latter's risk.

5. In relation to the demonstration of weight loss due to refrigeration or freezing, reference is made to the provisions in Art. 4 paragraph 3.

6. The burden of proving that the alleged faults were already present at the time of the transfer of the risk rests in all cases with the buyer.

7. Complaints expressed after the terms mentioned in this Article need not be taken into consideration by EuroFoodLink and do not lead to any liability on the part of the company. If EuroFoodLink decides of its own volition to take these complaints into consideration, its efforts in this respect must, unless agreed otherwise, be regarded as leniency without entailing any acceptance of liability.

#### **Article 8: Liability**

1. Only if buyer has observed the provisions laid down in the preceding article can EuroFoodLink be held legally liable, with due regard to the provisions in these conditions, during a maximum of three months after the date of delivery on account of an attributable failure to meet its obligations.

2. If EuroFoodLink acknowledges attributable failure on its part or if this is established by any other means, then it has the right to inform buyer within a reasonable term that it shall, at its own option and without prejudice to any of its other rights pursuant to these general terms and conditions,;

- repay the price paid by the buyer,
- redeliver the items at no cost,
- deliver the missing items,
- make reparations.

If EuroFoodLink thus manages to perform its agreed obligations in the short term, the agreement will be deemed to have been correctly fulfilled or – in the case of repayment of the price – will be deemed to have been dissolved without the buyer having any right to compensation.

3. The obligation to provide compensation pursuant to any legal basis whatsoever shall be limited to the damage against which EuroFoodLink is insured pursuant to an insurance taken out by or for the benefit of EuroFoodLink, but shall never exceed the amount that is paid by this insurance in the relevant case.

4. If for any reason whatsoever EuroFoodLink cannot rely on the limitation of paragraph 3 of this article, the obligation to provide compensation shall be limited to at most 15% of the total order priced (excluding VAT). If the agreement consists of parts or partial deliveries, the obligation to provide compensation shall be limited to at most 15% (excluding VAT) of the order price of that part or partial delivery.

5. Not eligible for compensation shall be:

- a. consequential loss. Consequential loss shall be among other things business interruption loss, production loss, loss of profit, transport charges and hotel and travelling expense. If possible, the buyer can take out insurance against this loss;
- b. damage caused by deliberate intent or deliberate recklessness of auxiliary persons or non-managerial subordinates of EuroFoodLink.

6. EuroFoodLink shall not be liable for damage to material delivered by or on behalf of the client as a result of improperly performed treatment.

7. The buyer shall indemnify EuroFoodLink for all claims of third parties owing to product liability as a result of a defect in a product that has been delivered by the buyer to a third party and that (also) consisted of products and/or materials delivered by EuroFoodLink. The buyer shall be obliged to compensate all the damage suffered in this connection by EuroFoodLink including the (full) costs of defence.

#### **Article 9: Non-attributable failure (force majeure)**

1. In addition to what the law considers to be force majeure, this term shall also include strike action and/or sickness of the employees of EuroFoodLink, non-performance and/or force majeure and/or wrongful and unlawful acts on the part of its suppliers, transporters or other third parties involved in the agreement, traffic stagnation, natural disasters, war or mobilisation, obstructive measures imposed by any governmental authority (among other import and export bans), diseases and/or pests in the crustaceans, shellfish, molluscs and/or fish, fire and other accidents that may occur in the conduct of its business as well as any other circumstances as a

result of which EuroFoodLink cannot be reasonably required to fulfil (the remainder) of the agreement either in part or in full.

2. If EuroFoodLink invokes force majeure, each of the parties, whenever the force majeure lasts longer than 15 working days or when it is right away clear that this is the case, has the right to dissolve the agreement either wholly – at least insofar as the force majeure is sufficiently substantial – or partly, namely the part that could not be fulfilled on account of force majeure. In the case of partial dissolution, parties are obliged to fulfil the part of the agreement that has not been dissolved. In the event of dissolution on the grounds of this provision, neither party is liable to pay compensation to the other party in respect of the dissolved part of the agreement.

#### **Article 10: Dissolution, right to claim, suspension and security**

1. In the event that the buyer is guilty of attributable failure, EuroFoodLink has the right, in addition to the right to dissolve the agreement, to dissolve or suspend by means of a written statement any other agreements between EuroFoodLink that have not yet been fulfilled in full. In this case EuroFoodLink also has the right to demand that the buyer pay all outstanding amounts immediately and in a single sum and/or to make future deliveries exclusively against advance payment.

2. During the fulfilment of the agreement EuroFoodLink has the right to require (additional) security if it receives any indications that the buyer's creditworthiness has been impaired to such an extent that there are good reasons to doubt the correct fulfilment of its obligations. This is always deemed to be the case if buyer fails to meet any of its payment obligations despite being served a notice of default.

#### **Article 11: Payment**

1. Unless the contrary has been agreed, EuroFoodLink always has the right to deliver exclusively against advance payment.

2. Payment must take place within the specific terms that are agreed between EuroFoodLink and the buyer and that are stated by EuroFoodLink on the order confirmation. If no such specific arrangements are made, payment must take place within 14 (fourteen) days of invoice date. Unless agreed otherwise, the buyer can never claim any right to settlement or suspension. If EuroFoodLink sends buyer an itemised statement of what it owes EuroFoodLink and of what EuroFoodLink owes it, then this document also serves as a statement of settlement. As soon as the payment term expires, buyer is in default without notice and, starting from the due date, is liable to pay interest at a rate of 7% above the ECB refinancing rate over the total invoice amount. At the end of each year, the amount over which interest is calculated is increased by the amount of interest payable over that year.

3. The payments to be made by buyer or third parties are always first deducted from those receivables in respect of which EuroFoodLink is not able to invoke the retention of title provided for in Article 6. With due regard to this provision, payments are first deducted from all payable costs and then from all payable interest and, finally, from the (oldest) principal sum.

#### **Article 12: Intellectual property**

EuroFoodLink exclusively retains all intellectual property rights to price statements, drawings and other documents that it produces.

#### **Article 13: Costs of legal assistance**

If the buyer, despite receiving a reminder, fails to settle a due and payable sum, it is liable to pay EuroFoodLink all out-of-court and court costs. Both the out-of-court and the court costs are calculated on the basis of the rate per time unit that the legal adviser of EuroFoodLink charges for such cases plus any reasonable expenses paid by that legal adviser to third parties.

#### **Article 14: Applicable law and competent court**

1. All agreements concluded by EuroFoodLink are governed by Dutch law with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

2. All disputes that arise between EuroFoodLink and that are governed by these general terms and conditions shall, unless imperative law impedes this, be settled by the competent court within the jurisdiction of the Court of Rotterdam, the Netherlands, without prejudice to the right of EuroFoodLink to take the buyer to another competent court.