

GENERAL CONDITIONS OF SALE

1. Flagfood AG shall hereinafter be called «the Seller» and the contracting party of Flagfood AG shall hereinafter be called «the Purchaser».

2. Offers made by the Seller shall be deemed to be requests for quotations.

3. All requests made by the Purchaser shall only be accepted and executed by the Seller in accordance with these General Conditions of Sale. By submitting a request or signing the agreement the Purchaser recognises these General Conditions of Sale. A purchase request shall only be considered accepted in the form confirmed in writing by the Seller. Verbal agreements shall only be effective if confirmed in writing. Claim for correction shall be reserved for writing mistakes, claim for contestation for errors.

4. Provisions and in particular general terms of business of the Purchaser contrary to the present General Conditions of Sale shall only be valid if confirmed in writing by the Seller. This shall also apply to differing conditions of a subsequent counter-confirmation by the Purchaser.

5. The Purchaser undertakes to accept or receive the goods purchased within the agreed term of delivery. If acceptance or reception is not made within the time specified, the Seller shall be authorised, without requiring further setting of a term and/or legal authorisation, either to deposit the article owed at the cost and risk of the Purchaser with effect of contractual compliance or to dispense with the subsequent service and either to demand compensation for the damage arising from non-fulfilment or to withdraw from the agreement and to demand compensation for damages from nullification of the agreement.

6. The samples provided by the Seller shall only be considered average samples without obligation.

7. The purchase agreement is concluded on the assumption that the credit rating of the Purchaser is undiminished. Unsatisfactory information, deterioration of the financial situation of the Purchaser and other circumstances which become known following the conclusion of the agreement which indicate in the view of the Seller that the granting of credit without security is no longer reasonable shall entitle the latter to withdraw from the agreement without notice or to make the choice of requesting advance payment or provision of security.

8. All events of force majeure (e.g. hostilities, blockades, fire, damage to harvests, other natural disasters, riots, strikes, operational interruptions of the Seller or its suppliers) and official measures in addition to all other events beyond the influence of the Seller which affect completion of the agreement shall entitle the Seller to choose either to withdraw from the agreement or to postpone the date of unloading/delivery according to the duration of the relevant event, with no claim for compensation arising on the part of the Purchaser. This also includes own delivery of the Seller not made in time, incorrectly or not made at all.

9. The goods shall always be transported at the cost and risk of the Purchaser. Changes in quality during transport shall be included in the risk of the Purchaser.

10. Unless otherwise agreed in writing, the prices are net (excl. value added tax) ex warehouse of the Seller without correction for any deductions. All subsidiary costs for transport, packing, freight, insurance, documents, export, transit, import and other permits as well as notifications shall be borne by the Purchaser. The Purchaser shall also bear the cost of all taxes, expenses, fees and customs duties charged on the goods supplied. The purchase price is payable net within 10 days from the date of invoice, i.e. excluding discounts and rebates. Complaints concerning quality or quantity shall not give entitlement to postpone payments due nor to reductions. In the event of a delay in acceptance, the total or balance of the price shall be due immediately.

11. Increases in freight charges, taxes, fees and similar imposed following conclusion of the agreement - also retroactively - shall be borne by the Purchaser, as well as the consequences of currency measures or events outside Switzerland. For delivery by water the agreed price shall assume normal water conditions. Surcharges for ice or high and low water shall be borne by the Purchaser unless otherwise agreed.

12. The entitlement is reserved to deliver a 10 % lower or higher weight. A deficiency in the net weight confirmed and charged shall only be recognised if officially determined and certified by the carrier. For loading on an HGV the driver of the truck must certify the deficiency and an official weighbridge certificate must be submitted.

13. Complaints concerning the goods shall only be considered if submitted in writing by the Purchaser within 24 hours following their arrival at the place of destination, or in the case of fresh produce within 4 hours. If the complaint is late, exchange, reimbursement or return shall be excluded. Complaints relating to transport must be made immediately to the freight forwarder by the Purchaser on receipt of the purchased goods or freight documents. The Purchaser undertakes to provide evidence to substantiate the complaint. If the Purchaser and Seller cannot agree on a resolution of the complaint, a certified expert must be appointed who will make an appraisal.

14. If a complaint about the goods is justified, the Seller shall either choose to take these back in full or to the extent covered by the complaint. The entitlement to make or not to make a replacement shall remain reserved. The Seller shall not undertake to make a substitute delivery, price reduction or compensation for damages. The Seller shall under no circumstances provide a guarantee and in particular shall not be liable that the purchased article can be sold in the specified country. Nor shall there be any liability for consequential damage due to defects.

15. If refusal to accept has an influence on quality or spoils the goods, the Purchaser shall be liable for the resulting damage, including the expenses incurred.

16. The Seller shall retain ownership of the goods supplied until full discharge of all claims due to it which are still outstanding vis-à-vis the Purchaser. If ownership of the goods is forfeited following processing by the Purchaser, the Purchaser shall transfer ownership of the article resulting from the processing at this time to ensure claims under Para. 16/1. Transfer of the article shall be replaced by the liability of the Purchaser to safeguard the article for the Seller free of charge. The Purchaser shall transfer all claims to the Seller at this time to ensure claims with subsidiary rights under Para. 16/1 due to him from further sale of the goods supplied or from processing. At the request of the Seller the Purchaser must provide immediate information in writing concerning to whom the goods have been sold and what claims are due to him from the sale. The Seller undertakes to return the securities transferred to it at the request of the Purchaser insofar as the value of the securities exceeds the value of the total claims due to the Seller by 20%. If the Purchaser is in default with his outstanding payments, then the Seller shall be immediately authorised to demand return of the goods by collection from the Purchaser. The Seller shall also be entitled in this case to inform the customers of the Purchaser of the cession of the claim by the Purchaser to the Seller and to collect the claims for his own account.

17. Following expiration of the term of payment the Purchaser shall be subject to default interest of 6%, without requiring a special reminder. If the Purchaser is in default in accepting the goods or with payments, the Seller may refuse further deliveries, including those from independent agreements, and may claim compensation until the Purchaser has satisfied all existing liabilities with respect to him from any agreements. The Seller can also make further deliveries subject to the prior payment of the purchase price or provision of security, without the Purchaser obtaining the resulting right to withdraw from the agreement. If the Purchaser ceases payment or if the Purchaser is threatened with dstraint or bankruptcy, or if a debt moratorium is opened, the Seller shall be entitled to waive further services with respect to all purchase agreements not fully satisfied without setting a term and either to claim compensation for damages arising from non-fulfilment or to withdraw from the agreement with compensation for damages arising from termination of the agreement. In this respect the Seller may also demand the goods supplied under reservation of right of ownership without the need for the Purchaser to be in default. In the event of withdrawal of the Seller, the Purchaser must return the goods immediately at his own expense and make compensation for the costs incurred by the Seller for freight and other expenses under the agreement.

18. The overall legal status of the parties, including that concerning validity of the agreements, shall be governed primarily according to the individual written agreements and secondly according to the individual provisions of these General Conditions of Sale. The relevant conditions of the Swiss Code of Obligations shall also have subsidiary validity. The provisions of the «Vienna United Nations Convention on Contracts for the International Sale of Goods» shall be explicitly excluded and therefore not be applicable.

The following conditions shall have subsidiary validity:

- Swiss fruit trading practices
- The legal conditions valid for foodstuffs with the quality standards concerning the relevant article
- Terms of trade for fruit and vegetables (FRG/EU)