

## GENERAL TERMS AND SALE CONDITIONS

### 1. General provisions

**1.1** In addition to the terms defined elsewhere in these General Terms and Conditions of Sale (defined below), the terms and phrases listed below have the meaning conventionally attributed to them or referred to in this Article 1.1:

- "Buyer": the legal entity, from whom the Seller (defined below) receives the purchase order;
- "Contract": the Buyer's purchase order, accepted by the Seller, including the General Terms and Conditions of Sale (defined below);
- "Parties": the Buyer and the Seller jointly;
- "Products": the Seller's products as set out in the price lists and catalogues agreed between the parties;
- "Seller": BEFOODIX S.R.L., with registered office in Via Pioppe, 1600/N – 41018 San Cesario sul Panaro (MODENA), Italy.

**1.2** The terms and conditions set out below (the "General Terms and Conditions of Sale") form an integral and essential part of each Contract concluded between the Seller and the Buyer for the purchase and sale of the Products and prevail over any conditions prepared by the Buyer, unless expressly accepted in writing by the Seller.

**1.3** The Seller reserves the right to amend, supplement or modify the General Terms and Conditions of Sale, attaching such changes to the offers or to any written communication to the Buyer. If the amendments, additions or variations of the General Terms and Conditions of Sale are not accepted by the Buyer within 15 days of the date of communication, the previously accepted General Terms and Conditions of Sale will apply, without prejudice to the Seller's right of withdrawal within the following 30 days.

### 2. Offers and Orders

**2.1** The offer/estimate made to the Buyer and the subsequent order proposal sent to the Seller shall not be binding on the Seller until the Buyer's order is accepted by the Seller pursuant to Article 2.2 below.

**2.2** The order placed by the Buyer shall not be deemed to have been accepted until it is confirmed in writing by the Seller. In the event that the Seller does not confirm an order in writing, the issuance of the invoice or the execution of the order by the Seller shall be deemed to be acceptance.

**2.3** These general terms and conditions are set out on the [www.befoodix.com](http://www.befoodix.com) website and form an integral part of any order confirmation, in which they are expressly referred to. The order processed in compliance with the confirmation sent to the Buyer by the Seller presupposes, even in the absence of signature, the knowledge and acceptance of these general conditions.

### 3. Delivery Terms

**3.1** The delivery of the Products takes place at the place indicated in the order confirmation and within the terms of the Incoterms® 2020 agreed with the Buyer. The Seller makes the delivery by making the Products available to the Buyer on the terms and at the places specified in the Contract (the "Delivery").

In the event of any written agreement of an essential deadline for delivery, BEFOODIX S.R.L. shall not be liable for any delays resulting from force majeure and extraordinary events (including, without limitation, accidents, strikes, natural disasters, interruption of transport, difficulty in finding raw materials, shutdown or unavailability of production facilities, etc.). The Buyer is obliged to return duly signed and stamped transport documents within 5 days of delivery, otherwise the Seller may apply penalties.

**3.2** The Seller is not liable for any loss or damage to the Products after Delivery; in no event shall the Buyer be exempt from the obligation to pay the price of the Products once Delivery has taken place.

**3.3** Without prejudice to the remedies referred to in Article 9 below, delivery may be suspended in all cases of non-compliance by the Buyer with the obligation to pay the price of the Products.

**3.4** All terms of delivery and supply conditions of the Products - even if defined as binding - are in any case intended to be indicative and assumed by the Seller with all tolerances of use. The Delivery term is only and exclusively that specified in the Seller's order confirmation.

**3.5** If the Delivery does not take place due to a fact attributable to the Buyer, it shall be deemed to have been made, for all purposes (including the commencement of the payment terms and the issuance of the invoice), with simple communication to the Buyer of the making available of the Products; after 5 days from the communication, the warehouse costs of 10 EUR/pallet per day shall apply and the Seller shall be exempt from any liability for loss, destruction, damage or loss of value of the Products.

**3.6** The Buyer undertakes to notify the Seller of the non-delivery of the Products to the place of destination indicated in the transport document or of the delivery of the Products to a place other than that indicated in the transport document within 1 (one) day from the date scheduled for delivery to the place of destination, by registered letter with acknowledgment of receipt or certified email (PEC) also containing a copy of the signed transport document. Following receipt of the aforementioned communication including the documentation, the Seller shall regularise the invoices issued with the application of VAT pursuant to Presidential Decree no. 600/1973. It is understood that the Buyer undertakes to indemnify the Seller for taxes, surcharges, interest and penalties of any kind, in addition to legal costs, in the event of any claims, assessments or penalties imposed by the Tax Authorities arising from such failure to communicate in writing or in any case from the delivery of the Products to the place of destination other than that indicated in the transport document. The Buyer, having taken note of the communication that the Seller requests to be signed by the carrier, also undertakes to notify the carrier of any change or modification of the destination of the Products. Failure to comply with the aforementioned obligation will result in the Seller charging the Buyer with any taxes, surcharges, interest and penalties of any kind, as well as legal charges, in the event of findings by the Tax Administration resulting from such failure to communicate.

**3.7** Except in cases of wilful misconduct or gross negligence, any liability of the Seller for damages resulting from delayed or non-Delivery (total or partial) of the Products is excluded.

### 4. Prices and Payment Terms

**4.1** The prices of the Products will be indicated in the price lists agreed between the parties, as well as any other charges or expenses relating to shipping, delivery and/or transport of the Products. The Seller reserves the right to modify the price lists at any time by giving notice to the Buyer with 15 days' notice. The Buyer shall advance any costs or expenses to be borne by it; by way of example but not limited to, these charges include the cost of additional packaging, transport costs, ancillary charges, taxes, stamps, customs duties and any other additional charges not included in the prices. Prices for Products may be subject to correction due to printing errors.

**4.2** The prices of the Products are net of VAT by law, which must be paid in accordance with the invoice.

**4.3** If, between the date of the order and the date of delivery, there is any increase in the costs of raw materials, energy, labour, fuel, production,

transportation and similar cost components, the Seller shall be entitled to adjust the agreed price by giving written notice to the Buyer, including by email. If such increase exceeds 10% of the price agreed at the time of the order, the Buyer shall have the right to withdraw from the Contract by notifying the Seller, by registered letter with acknowledgment of receipt, within 5 (five) days from receipt of the notice of the price increase.

Failing such notice within the above term, the adjusted price shall be deemed fully accepted by the Buyer.

**4.4** In addition to the other remedies provided for by law and/or by the Contract, the Seller may apply interest on late payments in accordance with the provisions of Legislative Decree no. 231 of 2002.

#### **5. Warranty Terms**

**5.1** The Seller guarantees that the Products are free from defects that make the Products unsuitable for the use for which they are intended or that appreciably reduce their value throughout their commercial life and in any case within the terms of the applicable law. In the event of ascertained non-conformity, the Vendor, at its discretion, will replace the non-conforming products, or refund the price paid for the defective products.

Any claims do not entitle the Buyer to suspend or delay, in whole or in part, payment under the terms of the Contract.

**5.2** This warranty operates exclusively on condition that the Purchaser formally notify in writing and within strict time limits indicated below, as well as on condition that the Purchaser has used and stored the products according to the correct indications and technical methods.

**5.3** The Seller guarantees the correct traceability of the products in accordance with current legislation and undertakes to provide, at the request of the Buyer, the necessary information relating to the origin, batches and supply chain.

**5.4** The Seller warrants that the products are delivered with a minimum durability date (Best Before Date) or expiry date appropriate to the nature of the product and in accordance with contractual agreements. The Seller also guarantees compliance with the storage and transport conditions provided for by applicable legislation and good practices in the sector.

**5.5** The Seller acts exclusively as a distributor and trader of food products and is not the manufacturer thereof. The Seller warrants solely that the Products:

- (i) have been sourced from qualified suppliers;
- (ii) have been stored and transported in compliance with applicable laws and industry best practices.

No further warranties are given by the Seller with respect to the intrinsic characteristics of the Products, for which responsibility remains solely with the manufacturer.

The Seller shall not be liable for defects arising from abnormal deterioration, negligence of the Buyer, improper storage, or from physical and/or chemical causes unrelated to the Products as supplied.

**5.6** The Seller is not liable for defects of the products deriving from production processes; composition or intrinsic quality; original non-conformities attributable to the manufacturer or previous suppliers, except in the case of wilful misconduct or gross negligence on the part of the Seller, including failure to adopt ordinary checks of professional diligence.

**5.7** In any case, the Seller's liability is limited to the value of the supply of the products found to be non-compliant. Any liability for indirect, consequential, loss of profit or reputational damages is excluded, within the limits of the law.

**5.8** The Buyer is responsible for the proper storage, handling and marketing of the products after delivery.

The Seller is not liable for damage resulting from improper use or non-compliant storage.

**5.9** Under penalty of forfeiture of rights, the Buyer undertakes to report apparent defects that must be reported within 24/48 hours of delivery, subject to a written note on the transport documents, undertaking to verify the quality and quantity of the goods at the time of delivery; hidden defects within 24 hours of discovery and in any case within terms compatible with the perishable nature of the products.

#### **6. Force Majeure**

**6.1** The Seller shall not be liable for damages resulting from the breach of any provision of this Agreement, or from any delay or failure to perform, in whole or in part, the obligations under this Agreement, in the event that and to the extent that such delay or default is attributable to circumstances beyond the reasonable control of the Party.

Such events include but are not limited to natural disasters, public authority measures, fires, earthquakes, floods or other natural disasters, epidemics, pandemics, embargoes, insurrections, riots and other civil unrest, wars, legal or governmental provisions, strikes, shortages of necessary supplies and/or lack of availability of means of transport or other contingencies, scarcity and/or difficulties in the supply of raw materials, outside the control of the Party involved.

**6.2** The event of force majeure will result in the suspension of the execution of the contract for the period of time in which the effects of the event of force majeure remain, with the consequent automatic extension of the terms for the performance of the obligations.

The Seller will do everything possible to minimize the consequences of such delay in accordance with the principles of good faith and contractual fairness.

**6.3** Upon the occurrence of the force majeure event, the Seller shall immediately inform in writing, in any case no later than 30 (thirty) days from its commencement. The communication will contain a precise description of the force majeure event and the reasons for the delay or inability to perform the contractual obligations.

**6.4** If a force majeure event lasts for more than 3 months, the Seller shall be entitled to terminate this agreement by giving at least 30 (thirty) days' notice by registered letter with acknowledgement of receipt.

In such a case, the consequences and the appropriate restitution of the respective contractual performances will be negotiated, in good faith, taking into account the stage at which the execution of this agreement had reached at the time of its termination.

#### **7. Buyer's obligations**

**7.1** The Buyer undertakes to store the products according to the conditions indicated; to respect the cold chain, where applicable; not to market products beyond the expiry date or in non-compliant conditions; to carry out checks upon receipt of the goods and to give simultaneous written notice of any non-conformities and/or disputes.

**7.2** The Buyer is responsible for the proper storage, handling and marketing of the products after delivery. The Seller is not liable for damage resulting from improper use or non-compliant storage.

**7.3** In the event of a risk to food safety, the Parties shall cooperate promptly for the withdrawal or recall of products from the market, in accordance with current legislation. The Seller shall inform the Buyer without delay of any non-conformities detected.

#### **8. Protection of Personal Data**

**8.1.** For the purposes of the execution of the Contract, the Parties undertake to comply with all obligations provided for by the Regulation (EU) 2016/679 concerning the "protection of natural persons with regard to the processing of personal data and the free movement of such data" (hereinafter "GDPR"),



as well as, within the limits of its applicability, to Legislative Decree 196/2003 ("Privacy Code"), as last amended by Legislative Decree 101/2018 and the provisions of the Guarantor Authority for the protection of personal data.

**8.2** By accepting this Contract, each Party, within its respective areas of competence, acknowledges that its own personal data and/or those of its employees and/or collaborators, involved in the execution of the Contract, may be communicated to the other party and processed by the latter as an independent Data Controller for purposes strictly functional to the establishment and execution of the Contract.

**8.3** In particular, the Buyer acknowledges that its personal data and/or that of its employees and/or collaborators, involved in the activities referred to in the Contract, will be processed by the Seller as an independent Data Controller for the purposes and according to the methods indicated in the "Customer Privacy Policy" provided pursuant to Articles 13 and 14 of the GDPR available on the website [www.befoodix.com](http://www.befoodix.com) under Privacy, which the Buyer undertakes to bring to the attention of its employees and/or collaborators.

#### **9. Termination of the Agreement**

**9.1** The Seller has the right to terminate each Contract with the Buyer, with immediate effect, pursuant to Article 1456 of the Italian Civil Code, by means of a communication sent by registered mail with return receipt declaring that it intends to avail itself of this express termination clause, in the following cases:

- a) if the Buyer fails to fulfill the payment obligations;
- b) if the Buyer is responsible for a serious breach of contract.

**9.2** The Seller has the right to withdraw from each Contract with immediate effect by means of a notice sent by registered mail with return receipt to the Buyer, with which it declares that it intends to avail itself of this clause if the Buyer's financial, and economic conditions are such as to reasonably presume the Buyer's state of crisis.

#### **10. Retention of title**

**10.1** The Seller retains ownership of the Products until full payment of the agreed price. Consequently, the Buyer undertakes to i) use them with due care, according to their destination; ii) not to transfer ownership and enjoyment to third parties, unless expressly and previously authorised to do so by the Seller. In the event of non-payment of all or even partial payment of the supplies by the Buyer, by the scheduled date, the Seller may regain possession of the delivered products, and this at its simple request. Notwithstanding the above, the Buyer is responsible for any damage and loss that occurs after delivery, even if due to unforeseeable circumstances, force majeure or other events not attributable to the Buyer.

#### **11. Applicable law – Jurisdiction**

**11.1** These General Terms and Conditions of Sale and each Contract entered into by the Buyer with the Seller shall be governed by Italian law.

**11.2** Any dispute arising between the Parties regarding the interpretation, validity or execution of these General Terms and Conditions of Sale and of each Contract shall be subject to the exclusive jurisdiction of the Court of Modena.

**11.3** In order to interpret the terms of delivery and any other commercial terms used by the Parties, reference is made to the Incoterms® 2020.

#### **12. Final provisions**

**12.1** The invalidity of individual provisions of these General Terms and Conditions of Sale in whole or in part shall not affect the validity of the remaining provisions.

**12.2.** These General Terms and Conditions of Sale may be amended, supplemented or varied exclusively by the Seller and in writing.