

Terms of Trade

General Terms and Conditions for Sales, Deliveries, and Payment Terms of Foodworker GmbH

1. General Area of Validity

1.1 These General Terms and Conditions apply to all of our current and future business relationships with our Customers. Our offers, deliveries and services are based solely on the following General Terms and Conditions.

1.2 Any deviating, contradicting or supplemental general terms and conditions even if known do not become part of the agreement, unless we have provided our express written consent.

1.3 Our General Terms and Conditions apply even if we execute delivery to the Customer without reservations despite the fact that we have knowledge of contradicting or differing terms and conditions of the Customer.

1.4 Our General Terms and Conditions only apply to persons, who at the time of the legal transaction act in their commercial or self-employed occupational capacity (entrepreneur in accordance with § 14 of the German Civil Code (BGB)), and to any legal entities under public law and special funds under public law in accordance with § 310 paragraph 1 BGB.

2. Conclusion of the Agreement

2.1 Our offers are non-binding until the Customer accepts them in writing. An agreement is concluded with us, when the Customer receives our written order acceptance or when we begin to deliver or perform our services. The content for this agreement is governed by our offer, our order acceptance and these General Terms and Conditions. Drawings, illustration, sizes, weights, specifications, packaging or other service information are non-binding unless they have been expressly agreed.

2.2 The agreement is concluded under the premise that we receive our deliveries from our suppliers correctly and within a timely manner. However, this shall apply only for the event, that we did not cause the not executed delivery; particularly, if we concluded a matching cover transaction with our supplier, i.e. in products, which we have to purchase ourselves and which we resell unchanged. The Customer will be promptly notified if the delivery is not available.

2.3 Product information and specifications is for descriptive purposes of the products only and they never include warranties as to the material quality in accordance with § 443 BGB (German Civil Code). 3. Part of the agreed quality of our products is only those properties and characteristics, which we have specified in our offer or in our order confirmation. Any other or further properties and characteristics are only then part of the agreed condition, if we have an express agreement with the Customer.

2.3 Any services, which go beyond our duties as seller, require a special agreement. Unless otherwise agreed, we do not warrant services and consultations of the Customer with regard to the manner of use of the products. This shall not apply in cases of intent or gross negligence.

3. Prices and Payment Terms

3.1 The prices specified in the order confirmation or otherwise agreed apply. These prices are exclusive of the statutory value-added-tax and they are specified in Euro, unless an agreement on a different currency has been made in the order confirmation.

3.2 Unless otherwise agreed, the prices are "exworks" (EXW – Incoterms 2010 - Bremerhaven), i.e. excluding transport, packaging, and shipping costs.

3.3 With the exception of an express agreement on other payment terms, the Customer is obliged to pay the purchase price of the goods within 10 days of receipt. The timeliness of the payment is determined by the time the payment is credited to our account. The Customer is in default after the termination of this payment period and we are entitled to charge late fees at the legal rate. We reserve ourselves the right to prove to the Customer that we have suffered a greater damage due to the default and claim the same. Payment terms granted in individual cases does not alleviate the default situation of payment.

3.4 Bills of exchange and checks are accepted in any case only in lieu of payment. We are not obliged to accept bills of exchange or checks.

3.5 The Customer is entitled to setoffs only, if the Customer's counterclaims have been legally determined by a court of law or we do not dispute them. The Customer may exercise the right to retention only, if the counterclaim is based on the same contractual relationship.

4. Delivery and Performance Terms

4.1 Any delivery or performance dates we specify are non-binding unless we have expressly agreed otherwise. Delivery dates define the date the shipment leaves the facility. In prepaid deliveries, they specify the date the goods are received at the Customer.

4.2 Compliance with deadlines and dates presupposes the timely receipt of all documents, permits, and releases to be provided by the Customer and it includes compliance with the agreed payment terms and any other advance performance duties of the Customer. If these requirements are not fulfilled within a timely manner, then the dates are extended accordingly, if we are not at fault for this delay.

4.3 We are entitled to make partial deliveries and provide partial services at any time, provided it is reasonable for the Customer and unless expressly excluded.

4.4 If a product cannot be delivered because of force majeure (unforeseen circumstances not caused by us and events such as war, the risk of war, unrest, the use of force of third parties against persons and properties and sovereign acts, labour disputes at our facilities or our suppliers or Customers, fire, weather conditions, interruptions of the planned shipment routes and a lack of raw material and energy) or production stops and we cannot procure the ordered goods under reasonable conditions, then we will be exempted from the duty to deliver provided these circumstances arose only after the conclusion of the agreement and were not caused by us. In this event, the Customer is promptly notified and any payments made by the Customer are reimbursed. If for the above-referenced reasons a product may only be temporarily undeliverable, then the delivery times will be extended for the period of hindrance. If this hindrance lasts for more than two months, the goods are deemed undeliverable.

4.5 If we are at fault that the expressly agreed delivery deadline cannot be maintained or we get into default for any other reasons, then the Customer must grant us a reasonable grace period - starting with the date on which we have received written notification of the default or in the event of a grace period determined by the calendar. After this grace period expires unsuccessfully, then the Customer is entitled to rescind the agreement.

4.6 We shall be liable in accordance with the legal provisions, provided the agreement on which this liability is based on a transaction for delivery at a fixed date; provided the Customer is entitled to claim that the Customer is no longer interested on the further fulfilment of the agreement as a consequence of a delay in delivery, which we have caused; provided the delay in delivery is based on an intentional or gross negligent breach of contract on our part; provided that our representative or agents are responsible for the delay. If the delay in delivery is not based on a breach of contract caused by us intentionally or by gross negligence, then the liability will be limited to the foreseeable, typically occurring damage.

4.7 We shall be liable in accordance with the legal provisions if the delay in delivery, for which we are responsible, is caused by a culpable violation of a significant contractual duty or cardinal duty; however, in this case, the damage is limited to the foreseeable, typically occurring damage.

4.8 If the Customer defaults in the acceptance of the goods, then we are entitled to invoice the goods and to store them at the Customer's expense and at the Customer's risk without having to grant any grace period. Provided the goods are stored at our facility, then we will invoice 3% of the invoice amount for each beginning month, whereby the Customer is entitled to prove a lesser damage.

4.9 If the goods are shipped using loading aids (pallets, etc.), then the Customer is obliged to return the same quantity of loading aids and in the same quality free of charge. If the Customer does not meet this obligation within a reasonable time, then the Customer owes us the amount required to purchase the same quantity of loading aids in the same quality.

5. Transfer of Risk

5.1 Unless otherwise expressly agreed, all deliveries are exworks (EXW - Incoterms 2010). The risk of accidental loss and accidental worsening of the goods is transferred at the time the goods are made available at the specified place of delivery.

6. Rights in the Event of Defects

6.1 The Customer is obliged to inspect the merchandise immediately upon delivery. Visible defects must be claimed immediately in writing or by e-mail. This notice period for complaints also applies to defective barcodes on the products. Covered defects must be claimed immediately upon their discovery in writing or by e-mail. The contractual Party cannot claim any defects of which we were not notified on time.

6.2 Standard trade variations in quality, sizes, and quantities do not constitute a defect. We shall only be liable for the goods' suitability for specific purposes of use and the chemical, biological and physical stability during reprocessing, if we have expressly assured this condition.

6.3 If we are responsible for a defect, then we are entitled to choose whether we will rectify this defect (reworking) or replace the defective goods with new goods. We will consider the Customer's justifiable interest during this selection. If the rectification of defect fails, then the Customer can request a reduction in compensation (reduction in price) or the Customer can rescind the contract (rescission). However, if this contractual breach is minor, then the Customer has no right to rescind the contract. If the Customer chooses to rescind the contract, then the Customer has no additional claim for damages. If the Customer chooses to claim damages, then the goods remain at the Customer, if it is reasonable. The claim for damages is limited to the difference in purchase price and the value of the defective item, provided we did not breach the contract maliciously.

6.4 The warranty expires if the Customer or a third party has modified the goods contrary to our processing and use information or if damages were incurred by the use of unsuitable third party materials. Furthermore, we shall receive the opportunity to review the complaint prior to further processing or the

resale of the claimed goods.

6.5 If the Customer does not properly store the goods from the time risk transfers to the Customer, in particular if the cold chain of minus 18 °C is not maintained in frozen products and a damage occurred, which could occur from such risk under the circumstances of such an, then it is assumed that the damage occurred from this risk.

7. Limitation of Liability and Statute of Limitation

7.1 The above-referenced Item 6 regulates the rights in the event of defects for deliveries and services and it excludes any claims for defects and damages of any kind and without consideration of the legal nature on which this right was asserted; particularly because of violations of duties under a contractual obligation or impermissible acts and for claims for replacement of any lost profits or any other financial losses of the Customer.

7.2 Paragraph (1) does not apply in the event of acceptance of a warranty or a procurement risk and it does not apply to liabilities under the Product Liability Act, and for damages of injuries to life, body or health and in cases for culpable violations of significant contractual duties (cardinal obligations).

7.3 We shall be liable if we are responsible for the violation of significant contractual duties - except in cases of intent, gross negligence and for damages arising from injuries to life, body or health - only to the extent of reasonable damages, which are foreseeable and typical for the nature of the agreement. A change of the burden of proof to the disadvantage of the Customer is not connected therewith.

7.4 To the extent our liability is excluded or restricted, the same shall apply to the personal liability of our employees, staff members, workers, representatives, or agents.

7.5 The claims and rights of the Customer for defects expire one year after the goods were delivered or the service was accepted. This deadline does not apply if § 438 paragraph 1 no. 2 BGB (German Civil Code) with regard to buildings and items for buildings, § 479 paragraph 1 BGB with regard to claims for recourse and § 634 a paragraph 1 no. 2 BGB with regard to construction defects stipulate longer terms.

7.6 Contrary to Items 7.5, the legal statutes of limitations apply to the Customer's damage claims for damages caused by injuries to life, body and health or for a violation of significant rights or a duty under this agreement as well as other damages based on the intentional or grossly negligent violation of a duty by us, our legal representatives or agents claims for malicious concealment of a defect, claims for reimbursement of expenses in accordance with § 478 paragraph 2 BGB as well as claims under the Product Liability Act of the Customer.

8. Extended Retention of Title

8.1 All delivered goods remain our property (merchandise with retained title) until all of our invoices due from the customer have been completely paid. Including individual receivables into a current invoice and balancing the account and its acknowledgment does not affect the retention of title; the retention refers in this case to the acknowledged balance. Until such time, the Customer is not entitled to pledge the goods to any third party or to assign it for collateral purposes. If the retained property is at risk by third party enforcement or in any other way, then the Customer is obliged to notify us immediately thereof. The Customer is responsible to pay for any intervention costs against third parties. The retention of title for goods does not reapply after the Customer has gained ownership title on these purchased goods, if new receivables are incurred in the business relationship.

8.2 The Customer is entitled to sell or process the goods with the retained title during standard business

transactions. If the Customer sells the goods with the retained title, then the Customer assigns to us in advance all payment claims against the secondary purchaser arising from the resale of the goods with the retained title. We accept this assignment. The assignment shall be for obligations, which the Customer has toward us. We may request that the Customer informs the Customer's buyers and discloses the debtors of the assigned receivables to us. The Customer shall accept any proceeds only as our trustee. If the Customer stops making payments to us, if the Customer filed for bankruptcy or if such proceedings were opened, then the Customer's has no longer any right to resale or process the goods with the retained title and the Customer is no longer entitled to collect the assigned receivables.

8.3 If goods delivered by us are processed by the Customer, then it is always done so on our behalf. If the goods with the retained title is processed with other materials not belonging to us or if it is inseparably mixed with such materials, then we acquire co-ownership on the newly created item in the proportion the value of the goods with the retained title is compared to the other processed or combined materials at the time of processing or combining. The same applies to the items created by processing as does to the goods delivered with retained title. If the combination is done in a manner that the item of the Customer can be seen as main item, then it is agreed that the Customer transfers to us a proportionate ownership share. The Customer will store for us this sole ownership or co-ownership created in this manner.

8.4 We agree to release any collateral to which we are entitled upon the Customer's request to the extent that the realizable value of our collateral exceeds our accounts receivable by more than 10%. We are entitled to select the collateral to be released.

9. Final Clauses

9.0 Jurisdiction for all mutual rights and duties is with the competent courts in Bremerhaven provided the supplier is a businessperson in accordance with the German Commercial Code. However, we are entitled to sue at the suppliers place of residency or a general jurisdiction.

9.1 This Agreement is construed and governed solely by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.

9.2 Jurisdiction for all mutual rights and duties is with the competent courts in Bremerhaven provided the Customer is a businessperson in accordance with the German Commercial Code. However, we are entitled to sue at the Customer's place of residency or a general jurisdiction.

9.3 If the provisions of the agreement with the Customer and/or these General Terms and Conditions for Sales, Deliveries and Payment Terms are or become ineffective in whole or in part, it does not affect the validity of the remaining provisions. The ineffective provision will be replaced by new provisions, which comes closest to the intended purpose of the invalid provision.

Terms and Conditions of Purchase

1. The Terms and Conditions of Purchase of FOODWORKER GmbH (Purchaser) are intended exclusively for use with business firms. They apply exclusively for all orders placed by the Purchaser and for all contracts concluded with the Purchaser. Terms and conditions of the Seller which deviate, contradict or supplement the same shall only apply if the Purchaser has expressly consented to such terms in writing. The Terms and Conditions of Purchase shall also apply if the Purchaser, in knowledge of contradictory or deviating terms of the Seller, accepts delivery from the Seller without reservation.

2. The price shown in the order of the Purchaser shall be binding. The Purchaser shall not bear any further costs. In the case of money transfers involving foreign countries, the Purchaser shall only bear the bank

charges which arise in the Federal Republic of Germany. The Purchaser shall be entitled to exercise rights of set-off and retention within the scope permitted by law.

3. Should the Seller fail to comply with shipment and loading instructions issued by the Purchaser and damage occur as a result thereof (for example higher freight costs, customs duties or new restrictions on imports to the detriment of the importer or such like), the Seller shall reimburse the Purchaser the additional expense.

4. The order of the Purchaser relates to healthy goods of the usual trade standard and of the indicated quality. Foods and their labelling must comply with all relevant of country of request provisions, including any quality / or marking provisions. The Seller shall bear the responsibility for any damage from defects, including any consequential damage of the defects, which occurs in connection with the delivery of defective goods. The Purchaser shall be entitled to the legal warranty claims without any deduction. The limitation period for legal or material defects shall amount to three years and shall commence with the delivery. The right to claim damages, in particular to claim damages in place of performance, remains expressly reserved.

5. Cases of force majeure shall entitle the Purchaser – regardless of its other rights – to cancel the contract, either in whole or in part, where they are of not insignificant duration. Cases of force majeure shall include e.g. war, riot, unrest, import and export restrictions, official measures, interruptions in operations for which the party is not responsible, strike, lockouts, interruptions of the traffic routes, natural catastrophes such as e.g. extraordinary heat, wetness or frost periods and other events which make it impossible or unreasonable for the Purchaser to perform the contract.

6. In the first priority, the provisions of these General Terms and Conditions of Purchase of the Purchaser shall apply. If and in so far as these contain no provisions, the following shall apply by way of supplementary provisions of the General Terms and Conditions of Business of the Waren-Verein der Hamburger Börse e.V., Hamburg [Association of the Foreign and Wholesale Trade]. The Seller shall, upon request, receive a copy of the relevant terms and conditions from the Purchaser and expressly agrees to their application. In the lowest priority, if and in so far as the provisions in accordance with sentences 1 and 2 do not apply, the law of the Federal Republic of Germany shall apply.

7. All legal disputes arising from or in connection with the business relationship shall be decided by a court of arbitration, namely on the basis of the Rules of Procedure of the Waren-Verein der Hamburger Börse e.V., Hamburg [Association of the Foreign and Wholesale Trade]. The Seller shall, upon request, receive a copy of the relevant terms and conditions from the Purchaser and expressly agrees to their application. The Purchaser reserves the right, at its option, to submit the dispute to an ordinary court of justice. In the event of normal legal proceedings being chosen, the exclusive court venue shall be Bremerhaven provided the Seller maintains a commercial business. Should the Seller wish to sue the Purchaser, it must first give the Purchaser the opportunity of exercising its option. At the request of the Seller, the Purchaser shall exercise its option prior to the institution of legal proceedings. Should the Purchaser fail to exercise its option or to exercise the same within 7 days following receipt of the request of the Seller, the dispute shall be decided in accordance with Clause 7, 1st sentence by a court of arbitration.

8. In its business relationships, FoodWorker GmbH places great value on compliance with fundamental social standards and responsible dealings with natural resources. These fundamentals have been put together in the code of conduct of the Business Social Compliance Initiative. FoodWorker GmbH expects the Supplier to comply with these fundamentals. This is a translation of the only authentic German version. A copy of the German text is available on request.