

**GENERAL CONDITIONS OF SALE**  
**of**  
**Hap Foods Holland B.V.**

**Article 1 - General**

- 1.1. Hap Foods Holland B.V. (hereinafter called: "Seller"), is registered with the Chamber of Commerce under no. 23075765 and is established in Hendrik-Ido-Ambacht and has its office at Vrouwgelenweg 84 (3341 BT) in Hendrik-Ido-Ambacht, the Netherlands.
- 1.2. "Conditions" means these general conditions of sale of the Seller.
- 1.3. "Buyer" means the Seller's other party being the (potential) buyer or a legal person on behalf of the (potential) buyer.
- 1.4. "Agreement" means the agreement and/or further follow-up agreements between the Seller and the Buyer.
- 1.5. "Goods" means all goods to be sold and/or to be delivered by the Seller to the Buyer in the sense of Article 3:2 of the Dutch Civil Code ("DCC").
- 1.6. "Damage" also comprises damage caused by death or injury, damage to goods of third parties, any form of financial loss, demurrage, detention and other direct or indirect (consequential) loss, that should arise on the part of the Seller or on the part of third parties. This damage also comprises judicial and/or extrajudicial costs that the Seller has had to make to defend itself against claims of third parties. "Consequential loss" means among other things trading loss, damage as a result of business interruption, loss of profit and/or loss of income.

**Article 2 - Applicability**

- 2.1. These Conditions apply to all legal relations in which the Seller acts as (potential) seller and/or supplier. This also includes a continuing performance agreement (whether or not implicitly) in force between the Seller and the Buyer, following from a series of incidental agreements and/or a durable trading relationship between the Seller and the Buyer.
- 2.2. Deviations from these Conditions shall only be made in writing. Such deviation shall have no effect in respect of any other (future) agreements.
- 2.3. Applicability of general (purchasing) conditions used by the Buyer is explicitly rejected.
- 2.4. If in a particular case the Seller does not rely on the provisions in these Conditions, this will not mean that the Seller has thereby waived the right to rely on the provisions in these Conditions in other cases.

**Article 3 - Offers**

- 3.1. All offers and quotations made by the Seller will be without obligation. After acceptance they may be revoked as yet within two days.
- 3.2. Any offer made by the Seller will be made subject to (timely) deliverability/availability of the Goods offered.

**Article 4 - Agreement**

- 4.1. An Agreement between the Seller and the Buyer will only be concluded after the Seller has acknowledged the Buyer's order in writing by means of a sales confirmation or after the Seller has started to perform the agreement.
- 4.2. Any change in or addition to an agreement will only be valid if it has been explicitly agreed upon in writing between the Seller and the Buyer.
- 4.3. If delivery is made without prior consultation about the price, quantity, composition and/or conditions, the Buyer will be bound by the price and conditions that the Seller determines for that delivery.
- 4.4. The contents of an Agreement shall only be proven by the sales confirmation and any change therein or addition thereto by the Seller.

**Article 5 - Price**

- 5.1. The prices are in euros, unless otherwise agreed upon.

- 5.2. The prices are exclusive of taxes and other levies.
- 5.3. In the event of an increase of one or more cost price components that occurred after conclusion of the Agreement and also extra costs for the performance of the Agreement, the Seller will be entitled to increase the original price accordingly.
- 5.4. The Seller will be entitled to charge taxes, import duties, levies and other taxes imposed by the authorities that were not known or in force at the time when the contract was concluded, or increases thereof.
- 5.5. Withdrawals or reductions of the taxes, import duties and other payments imposed by the authorities that were not taken into account when the contract price was determined will benefit the Seller.

#### **Article 6 - Payment**

- 6.1. The Buyer must pay the agreed price, the taxes and other levies within fourteen (14) days after the invoice date, unless otherwise explicitly agreed upon in writing. Payment will be made by bank from the country where the Goods have been or will be delivered, unless otherwise agreed upon.
- 6.2. The day of payment shall be the day of receipt into one of the Seller's bank accounts.
- 6.3. The Buyer will not be entitled in any case to any discount and/or set-off and/or suspension.
- 6.4. If the Buyer does not pay the invoice within the period set by the Seller, ceases, is declared bankrupt or applies for a suspension of payments, the Buyer will be in default without any notice of default and all obligations of payment will consequently be immediately due and payable.
- 6.5. In the event of non-timely payment the Buyer will owe the Seller statutory commercial default interest pursuant to Article 6:119a DCC.
- 6.6. If the Buyer fails in the fulfilment of its obligations, the Buyer will in addition owe the Seller a fine in the amount of 10% of the purchase price subject to the Seller's right to claim (i) to set aside the Agreement as mentioned in article 16 or (ii) performance of the Agreement, in all cases subject to the Seller's right to additionally claim the damage actually suffered.
- 6.7. If the Buyer fails in the fulfilment of its obligations, it will owe extrajudicial (collection) charges, which are set at 15% of the payable principal amount or of the damage suffered or the Seller's actual costs for legal assistance if that leads to a higher amount and in addition all judicial costs.
- 6.8. If the Seller doubts on reasonable grounds that the Buyer is able to fulfil its obligations of payment and/or other obligations, which will at any rate be the case if the Buyer leaves a due debt unpaid, the Seller will be entitled to demand from the Buyer that prepayment of the agreed amount is made or that the Buyer furnishes adequate security. Until the Buyer has done this, the Seller will be entitled to suspend the performance of the agreement. The size of the prepayment or the amounts and/or adequateness of the security to be provided will be assessed by the Seller.

#### **Article 7 - Retention of ownership**

- 7.1. The Seller will retain the ownership of the Goods delivered by it until the Buyer has fulfilled all its obligations. The Goods delivered by the Seller to the Buyer will therefore remain the Seller's exclusive property - also after and in spite of processing or treatment - until the time of full payment of all the Seller's claims with regard to Goods delivered or to be delivered (by virtue of the agreement), and in addition until the time of full payment of the claim due to failure to perform such agreements (including expenses and interest).
- 7.2. If the Buyer is also obliged to pay compensation, the ownership will only be transferred upon payment of the compensation in full.
- 7.3. During the period that the ownership of the Goods still lies with the Seller, the Buyer will be obliged to store the Goods delivered subject to the retention of ownership carefully and as recognizable property of the Seller and it will not be able to transfer (sell and/or deliver) the Goods to third parties and/or encumber them with a security interest.
- 7.4. The Buyer may use Goods to be delivered onwards with third parties within the normal performance of its business with observance of the following provisions:
  - a) in the event of whole or partial resale/onward delivery of the Goods, or the good acquired by treatment or processing, the Buyer undertakes only to sell/deliver subject to the retention of ownership. The Buyer undertakes to assign to the Seller on first request the claim and rights created by the resale.

- b) in the event of treatment or processing of the Goods the good thus acquired will take the place of the Goods delivered. This will also apply if the new product has been composed of Goods delivered by the Seller and goods of third parties. If a retention of ownership as referred to above was also made by one or more of these third parties, the Seller will acquire together with this third party/these third parties the co-ownership of the new good created. In so far as necessary the buyer already hereby creates a non-possessory lien on these goods for the Seller's benefit.
  - c) the Buyer undertakes not to have others collect the claims on third parties or to assign them to others or to allow others to be subrogated to the rights of claim, without the Seller's prior written permission.
- 7.5. If the Buyer fails in the fulfilment of its obligations to the Seller, or if the Seller has a reasonable ground to fear that the Buyer will fail at the fulfilment of those obligations, the Seller will be empowered to repossess the delivered Goods at the Buyer's expense without prior notification to the Buyer, without prejudice to the Seller's right to compensation.
- 7.6. If the Agreement is set aside by the Seller and/or the Buyer and a retention of ownership still rests on the Goods, the Buyer must immediately place these Goods at the Seller's disposal. The Buyer will not be entitled to set off its claims therewith or to suspend its obligation to make the Goods available for that reason.
- 7.7. The Buyer or a representative/agent designated by the Buyer is not empowered to present Goods and documents to third parties, to pledge them to third parties, or to give any other right thereto to third parties until the purchase price has been received into the Seller's (bank) account indicated for the purpose.
- 7.8. In respect of the Seller's delivery of Goods in Germany the consequences of the retention of ownership under Property Law as stipulated in the articles 7.1-7.6 of these Conditions are governed by German law. In these cases the Articles 7.1-7.6 also comprise the extended retention of ownership ("Verlängerter Eigentumsvorbehalt") as explained in the "Germany Clause" included in these Conditions.

#### **Article 8 - Risk and delivery**

- 8.1. The risks concerning the Goods will be transferred at the time of delivery.
- 8.2. The delivery will be made when the Goods are made available by the Seller to the Buyer. In the event of transport delivery will be made when the Goods are made available by the Seller to the first carrier or, if the transport is at the Seller's risk according to the agreement, at the time that the Goods are made available to the Buyer in the agreed place.
- 8.3. The Seller does not guarantee that the Goods will be delivered on the agreed delivery date. In the event of non-timely delivery the Seller must be held in default in writing, on which occasion it will be granted a reasonable period of four (4) weeks to perform as yet.
- 8.4. The Seller will be permitted to deliver the Goods in instalments. In that case the Seller may invoice separately and the Buyer is obliged to pay these invoices as if they were invoices for separate agreements.

#### **Article 9 - Taking receipt**

- 9.1. From the agreed delivery date the Buyer will be obliged to take receipt of the Goods upon presentation by the Seller.
- 9.2. If the Buyer does not or not immediately take receipt of the Goods, the Seller will be entitled, with retention of the other rights due to the Seller, to store the goods with the Seller or with third parties at the Buyer's expense and risk. The Buyer will be obliged to collect the Goods there at its expense and risk.

#### **Article 10 - Transport documents and other documents**

- 10.1. The Seller's copy of the transport document signed for receipt by the carrier without remarks will serve as full proof of dispatch of the quantities mentioned in the transport document, and also the external good condition of the Goods.

- 10.2. The Buyer is obliged to provide the Seller in good time with all documents applicable to the transaction and/or sold Goods with observance of the prescribed periods and formalities, in the absence of which the Buyer will be fully liable to the Seller for the damage resulting therefrom. This will also apply with regard to compliance with regulations of the European Union or other national and/or international authorities and governments.
- 10.3. All arising out of or resulting from the preparation and delivery of the required documents will be for the Buyer's account, unless the opposite has explicitly been agreed.
- 10.4. As soon as the Buyer fails to fulfil any obligation and/or gets into financial difficulties, the Seller will be entitled to repossess or have others repossess the documents immediately or to recover or have others recover the Goods or the goods acquired by treatment or processing immediately, to sell or have others sell them in its own name and to set off the proceeds with the Seller's claims on the Buyer.
- 10.5. All certificates issued in the country of origin, which generally serve for importers as sufficient evidence in connection with the quality and/or condition of the Goods will also serve for the Buyer as sufficient evidence of the quality and/or condition of the Goods.

#### **Article 11 - Complaints**

- 11.1 Goods will comply with the matters agreed if they comply with the statutory quality requirements that apply at the time of the conclusion of the Agreement in the place where the Seller is established or with anything that has specifically been agreed.
- 11.2 Immediately upon delivery the Buyer will examine the Goods whether they comply with the Agreement and will report and confirm in writing any defect found, both in the case of non-frozen meat and perishable (food) products and in the case of any other (food) products, to the Seller within 12 hours, failing which the Goods will be deemed to have been delivered in conformity with the matters agreed, in which connection the Buyer will not be able to bring any claim against the Seller in respect of any shortcoming(s).
- 11.3 After reporting defects as provided in article 11.2 the Buyer must immediately have an examination report drawn up by an independent surveyor and the Buyer must send this report to the Seller within 30 days after the defect was reported, failing which the Buyer will not be able to bring any claim against the Seller in respect of any shortcomings.

#### **Article 12 - Figures, dimensions, weights and other data**

- 12.1 Minor deviations from stated dimensions, weights, figures, colours and other such details shall not be regarded as shortcomings of the Seller. Loss of weight as a result of refrigeration or freezing will not be considered a shortcoming of the Seller either.
- 12.2 Trade practice will determine whether a minor deviation occurs.

#### **Article 13 - Liability**

- 13.1 If the good delivered does not substantially comply with the agreement, the Seller will be entitled to deliver a replacement parcel once.
- 13.2 The Seller does not guarantee that the Goods can be traded freely and/or without any restrictions in the country of delivery and/or the final destination. Any liability in that respect is excluded. Measures and/or sanctions in the country of delivery and/or the final destination that are both in force at the time of conclusion of the Agreement and introduced afterwards, and that affect the marketability of the Goods will be entirely at the Buyer's expense and risk.
- 13.3 In case of force majeure as referred to in article 15.2, the Seller will have the possibility of fulfilling its obligations as yet after the circumstances that produced the non-attributable shortcoming no longer exist or to terminate the agreement or the part thereof not yet performed, without owing any compensation to the Buyer in that connection.
- 13.4 If the Goods delivered do not comply with the agreement, the Buyer will only be entitled to compensation of damage or price reduction with observance of the other provisions of this article. The Buyer shall not be entitled to set aside the agreement.
- 13.5 The Seller shall never be liable for damage caused by death or injury and in respect of consequential loss and business interruption loss.

- 13.6 Any liability of the Seller is in any case limited to a maximum of €50,000.00.
- 13.7 Limitations and/or exclusions of liability shall not apply only in so far as the damage is the result of an act or omission of the Seller or the management of the Seller either committed with intent to cause that damage or committed recklessly and with the knowledge that this damage would very probably result therefrom.
- 13.8 If subordinates of the Seller and also persons whose services the Seller uses for the performance of the agreement are sued, these persons may rely on any exemption and/or limitation of liability that the Seller can invoke on the basis of these Conditions or any other statutory or contractual provision.

#### **Article 14 - Indemnity**

- 14.1 The Buyer is obliged to indemnify the Seller for all claims of third parties (including but not limited to damage, taxes, import duties, anti-dumping levies, etc.) in relation to the performance of or relating to the Agreement.
- 14.2 The obligation of the Buyer as mentioned above in Article 14.1 shall not apply in so far as the damage has been caused by an act or omission of the Seller or the management of the Seller either committed with intent to cause that damage or committed recklessly and with the knowledge that this damage would very likely result therefrom.

#### **Article 15 - Force Majeure**

- 15.1 In the event of force majeure in the sense of Article 6:75 DCC performance of the Agreement will be suspended in full or in part for the duration of the force majeure period, without the Seller and the Buyer being obliged reciprocally to make any compensation in the matter. If the force majeure situation lasts for more than thirty (30) days, the other party will be entitled to set aside the Agreement by means of a written letter with immediate effect and without the necessity of court proceedings, without any right to compensation being created thereby.
- 15.2 Force majeure on the side of the Seller shall at any rate be, irrespective of whether the circumstances are or were anticipated at the time when the contract was concluded: acts and omissions of servants whom the Seller uses in the performance of the agreement; unsuitability or defectiveness of goods that the Seller uses in the performance of the Agreement; strike of work; business interruption; sickness(es); import, export and/or transit prohibitions; measures of governments or otherwise empowered bodies; transport problems; unforeseen technical circumstances; non-fulfilment of obligations by suppliers and/or servants of the Seller; boycott of the Seller or its suppliers; weather conditions; natural and/or nuclear disasters; insurrection; fire; acts and threat of war. This list must not be considered limited.

#### **Article 16 – Setting aside and suspension of the agreement**

- 16.1 If the Buyer does not, not properly or not in time fulfil any obligation following from the Agreement or from these Conditions, the Buyer will be in default without notice of default and the Seller shall be entitled, without being obliged for that reason to make any compensation and without prejudice to the further rights due to the Seller, to suspend the performance of all its obligations with immediate effect and without the necessity of court proceedings and/or to suspend or give notice to set aside the relevant agreement in full or in part.
- 16.2 In the event of setting aside the agreement by the Seller, the Seller will be entitled, by way of compensation, at its own discretion to:
- a) the possible disadvantageous difference between the contract price and the market value of the Goods in dispute on the day of non-fulfilment, or;
  - b) the difference between the contract price and the price of the substitute transaction: all this subject to the Seller's right to additional or substitute compensation.
- 16.3 The Seller will in addition be entitled, without being obliged to make any compensation for that reason and subject to the further rights due to the Seller, with immediate effect and without the necessity of court proceedings, to set aside the agreement with the Buyer, if:
- a) The Buyer is subject or under threat of becoming subject to a suspension of payment or bankruptcy, or any part of its property has been attached;

- b) The Buyer ceases or ceases its activities, resolves on liquidation or otherwise loses its legal personality;  
all subject to the Seller's right to additional or substitute compensation.
- 16.4 The Buyer is entitled to set off claims on the Buyer with debts to the Buyer, even if the claims and/or debts are not yet claimable or susceptible of immediate settlement.

#### **Article 17 – Compliance and sanction rules**

- 17.1 The Buyer accepts that on the basis of applicable regulations to prevent money-laundering and financing of terrorism the Seller will report unusual transactions to the competent authorities.
- 17.2 The Buyer accepts that on the basis of applicable regulations the Seller may be obliged to identify the Buyer and verify the identification. The Buyer shall fully cooperate in this respect. The Seller will record and keep the required data in accordance with applicable regulations.
- 17.3 The Buyer accepts that the said duty to provide information prevails over the applicable privacy rules.
- 17.4 The Buyer guarantees the observance of all applicable sanctions and limitations laid down in and following from all American, UN or EU sanctions and export control regulations in force at the time of conclusion of the Agreement and during its performance.
- 17.5 The Seller is entitled to terminate the Agreement immediately, if it supposes in reason that the Goods are directly or indirectly intended for any country for which in pursuance of American, UN or EU regulations for the relevant Goods a sanction is in force, without an exemption or permit having been obtained for the purpose from a competent agency.
- 17.6 In pursuance of the termination of the Agreement on the basis of one of the above-mentioned articles any obligations of the Seller under the Agreement will immediately lapse. The Buyer will indemnify the Seller against any claim, fine or other damage of third parties that follows from or is related to such a termination or transgression.

#### **Article 18 - Privacy**

- 18.1 Prior to the conclusion of an Agreement the Buyer accepts that it will fill in and sign Onboard Customer Forms of the Seller. With regard to the personal data received the Seller will comply with the applicable regulations. The Seller is a "controller" in the sense of those regulations in respect of the personal data received during the performance of the Agreement. The Seller will only use the data received in so far as strictly necessary for the performance of the Agreement. For the performance of the Agreement the Seller will determine the objective and scope of the personal data to be processed in order to comply with the regulations and also its legitimate interests under the Agreement.
- 18.2 The Seller may, process, store the data whether or not received during the performance of the Agreement and share it with anyone inside the Seller's organization concerned in the performance of the Agreement and the customer management. The Seller shall not process the data on the Buyer's instruction, unless this is required in view of the services to be rendered. The Seller shall only process the data in so far as compatible with the objective for which the data have been collected. The Seller will take the necessary measures, both technical and organizational, to protect the personal data from loss, modification and unauthorized access, whether or not by third parties.
- 18.3 The parties will confidentially process the data collected during the performance of the Agreement. The parties will not share the received personal data with third parties, unless the parties have given prior permission or if necessary to comply with applicable regulations. All this in so far as it does not concern information accessible to the public or the data cannot harm the parties in any way.

#### **Article 19 - Transfer of rights and obligations**

- 19.1 The Seller is entitled to transfer rights and/or obligations on the basis of the Agreement to third parties.
- 19.2 Unless otherwise agreed upon, the Buyer may only transfer rights and/or obligations on the basis of the Agreement to third parties with the Seller's prior written permission. The Seller may attach conditions to this permission.
- 19.3 The Buyer undertakes to assign its possible claim(s) on its insurance company to the Seller on the Seller's first request.

#### **Article 20 - Limitation period**

20.1 All claims against the Seller will become time-barred on expiry of one (1) year after the event from which the claim follows or would follow.

#### **Article 21 – Continuing performance agreement**

21.1 In accordance with the provisions in article 2.1, these Conditions also apply to a continuing performance agreement in force between the Seller and the Buyer (whether or not implicitly), following from a series of incidental agreements and/or a durable trading relationship between the Seller and the Buyer.

21.2 A continuing performance agreement in force between the Seller and the Buyer may always be terminated by the Seller by written notice of termination, with observance of a three (3) months' period of notice.

21.3 A continuing performance agreement in force between the Seller and the Buyer may always be terminated by the Buyer by written notice of termination, with observance of a six (6) months' period of notice.

21.4 The Buyer waives the right to compensation that would (possibly) be due to it if the Seller terminates the continuing performance agreement.

#### **Article 22 - Language**

22.1 The Dutch text of these Conditions forms the only authentic text. In the event of deviation between the Dutch text and the translation into a foreign language the Dutch text will prevail.

#### **Article 23 - Applicable law**

23.1 All legal relationships following from or relating to these Conditions or the Agreement(s) will be governed exclusively by Dutch law.

#### **Article 24 - Competent court**

24.1 Any disputes following from or relating to these Conditions or the agreement(s) between the Seller and the Buyer will be settled exclusively by the District Court of Rotterdam if the Buyer's registered office is situated in the European Economic Area (EEA) and by means of UNUM Arbitration (<https://unum.world/>) in Rotterdam if the Buyer's registered office is not situated in the EEA.

#### **GERMANY CLAUSE**

##### Verlängerter Eigentumsvorbehalt

- (1) Verkäufer behält sich das Eigentum an den Liefergegenständen bis zum Eingang aller Zahlungen aus dem Liefervertrag vor. Verarbeitung oder Umbildung erfolgen stets für Verkäufer als Hersteller, jedoch ohne Verpflichtung für sie. Wird der Liefergegenstand mit anderen, Verkäufer nicht gehörenden Gegenständen nicht verarbeitet, so erwirbt Verkäufer das Miteigentum an der neuen Sache im Verhältnis des Wertes der Kaufsache zu den anderen verarbeiteten Gegenständen zur Zeit der Verarbeitung. Erlischt das (Mit-) Eigentum Verkäufer durch Verbindung, so wird bereits jetzt vereinbart, dass das (Mit-) Eigentum Verkäufer an der einheitlichen Sache wertanteilmässig (Rechnungswert) auf Verkäufer übergeht. Der Käufer verwahrt das (Mit-)Eigentum Verkäufer unentgeltlich. Ware, an der Verkäufer (Mit-)Eigentum zusteht, wird im folgenden als Vorbehaltsware bezeichnet.
- (2) Der Käufer ist berechtigt, die Vorbehaltsware im ordnungsgemässen Geschäftsverkehr zu verarbeiten oder zu veräussern, solange er nicht in Verzug ist. Verpfändungen oder Sicherungsübereignungen sind unzulässig. Die aus dem Weiterverkauf oder einem sonstigen Rechtsgrund (Versicherung, unerlaubter Handlung) bezüglich der Vorbehaltsware entstehenden Forderungen tritt der Käufer bereits jetzt sicherungshalber im vollem Umfang an Verkäufer ab. Verkäufer ermächtigt ihn widerruflich, die an Verkäufer abgetretenen Forderungen für dessen Rechnung im eigenen Namen einzuziehen. Diese Einzugsermächtigung kann nur widerrufen werden, wenn der Käufer seinen Zahlungsverpflichtungen nicht ordnungsgemäss nachkommt.
- (3) Bei Zugriffen Dritter auf die Vorbehaltsware wird der Käufer auf das Eigentum Verkäufer hinweisen und diese Unverzüglich benachrichtigen.

- (4) Bei vertragswidrigem Verhalten des Käufers – insbesondere Zahlungsverzug – ist Verkäufer berechtigt, die Vorbehaltsware zurückzunehmen oder ggf. Abtretung der Herausgabeansprüche des Käufers gegen Dritte zu verlangen. In der Zurücknahme sowie in der Pfändung der Vorbehaltsware durch Verkäufer liegt kein Rücktritt vom Verträge.
- (5) Verkäufer verpflichtet sich, die Ihr zustehenden Sicherheiten auf Verlangen des Käufers insoweit freizugeben, als der Wert der Sicherheiten die zu sichernden Forderungen um 20% übersteigt. Für die Bewertung des Sicherungsgutes ist, auch soweit es be- oder verarbeitet worden ist, der Gestehungspreis massgebend. Die Bewertung abgetretener Forderungen erfolgt zu deren Nennwert.

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