

GENERAL TERMS AND CONDITIONS OF SALE – FRESHCLUSIVE B.V.

Article 1: Applicability

1. These terms and conditions apply exclusively to sales agreements concluded by Freshclusive B.V. (hereinafter referred to as “Seller”) with third parties (hereinafter referred to as “Buyer”), unless explicitly agreed otherwise.
2. Deviations from these terms are only binding if agreed upon in writing.
3. The applicability of the general (purchase) conditions used by the Buyer is expressly excluded. Any reference by the Buyer to its general (purchase) conditions is not accepted by the Seller.

Article 2: Offers, Quotations

1. All offers made by the Seller are non-binding.
2. If the Buyer does not object by email to the contents of the order confirmation immediately upon receipt, the order confirmation is deemed to accurately reflect the agreement.
3. Additional or modified agreements made later bind the Seller only if they have been confirmed in writing or have been executed.
4. For services and deliveries for which the Seller has sent a quote or order confirmation based on their nature and scope, the invoice/delivery note is also considered the order confirmation, which is deemed to accurately and completely reflect the agreement.
5. Orders placed by telephone are accepted by the Seller only at the Buyer’s risk. Any resulting inaccuracies are the responsibility and risk of the Buyer.

Article 3: Prices

1. All prices are in Euros and exclusive of transport costs, unless otherwise stated.
2. Unless explicitly agreed otherwise, prices are exclusive of VAT.
3. The Seller is not obligated to honor an agreement at a stated price that is clearly based on a typographical or clerical error.
4. Payment must be made exclusively at a bank institution designated by the Seller.

Article 4: Delivery Location and Method

1. The method and location of delivery are agreed upon between the Seller and the Buyer in the order confirmation.
2. The following delivery methods are available:
 - **Ex Works (EXW)**: Delivery takes place at the Seller's warehouse. The Seller prepares the goods for the Buyer, who is responsible for transport.
 - **Free Carrier (FCA)**: If agreed that transport will be handled by or on behalf of the Seller, delivery is made by loading the goods onto the transport vehicle.
 - **Delivered At Place (DAP)**: The Seller and Buyer agree that the Seller will deliver the goods to the agreed location, with the Seller responsible for transportation. Delivery takes place at the agreed location.
3. If the delivery method and location are not agreed upon between the Parties, the Seller is free to choose the delivery method and location. The Seller will inform the Buyer accordingly.
4. When the goods are stored by or on behalf of the Seller for the Buyer, either at the Seller’s or a third party’s premises, delivery is deemed to have taken place at the time the goods are stored. From that moment, the goods are at the Buyer’s expense and risk.
5. Delivery dates agreed upon between the Seller and Buyer are approximate. These dates do not constitute binding deadlines. The Seller will be in default only after the Buyer sends a written notice, allowing a reasonable period for the Seller to deliver the goods. A formal notice is not required if the Buyer can reasonably infer from the Seller’s communication that the Seller will not proceed with delivery even after a written reminder. Minor delays in delivery do not entitle the Buyer to cancel the agreement.

Article 5: Risk

The risk for the goods passes to the Buyer upon delivery, and if the Buyer refuses to cooperate with the delivery, from the moment the acceptance is refused. In such cases, the Seller is entitled to store the goods at the expense of the Buyer and, ultimately, to destroy them. The Seller is also entitled to dissolve the agreement or demand fulfillment of the agreement and/or claim damages.

GENERAL TERMS AND CONDITIONS OF SALE – FRESHCLUSIVE B.V.

Article 6: Delivered Quantity

The quantity delivered, in terms of both amount and weight, is deemed to comply with the agreement and with public and/or private legal requirements, unless the Buyer provides evidence to the contrary.

Article 7: Partial Deliveries

The Seller is entitled to deliver goods in parts unless a partial delivery has no independent value. If goods are delivered in parts, the Seller is entitled to invoice each part separately.

Article 8: Force Majeure

1. In case of force majeure, the Seller's delivery and other obligations are suspended. These obligations will resume once compliance is reasonably possible again.
Force majeure includes, but is not limited to:
 - Unforeseen circumstances affecting persons and/or materials that the Seller uses or commonly uses to fulfill the agreement, which make the performance of the agreement impossible or excessively burdensome and/or costly, so compliance with the agreement can no longer reasonably be expected;
 - strikes, wars;
 - Circumstances in which the Seller does not, or not on time or properly, receive a necessary performance related to the goods they must deliver.
2. In case of force majeure, the Seller is not liable for damages unless the Seller has enjoyed a benefit due to the failure, which they would not have had with proper performance. In that case, the Seller's liability is limited to an amount corresponding to the benefit gained.
3. If the Seller has already partially fulfilled their obligations at the onset of force majeure, or can only partially fulfill their obligations, the Seller is entitled to separately invoice the portion already delivered or deliverable, which the Buyer is obliged to pay as a separate contract.

Article 9: Harvest Conditions

Agreements between Seller and Buyer are always subject to the condition of an unfavorable harvest concerning the quantity and/or quality of agricultural products and/or the disapproval of these products by the competent authorities. If the Seller, due to a poor harvest or disapproval by the competent authorities, is unable to deliver the sold agricultural products to the Buyer, the Seller is entitled to invoke the condition by simple notice to the Buyer. In this case, the Seller is not obliged to deliver replacement agricultural products and is not liable for any damages arising from the condition's effect.

Article 10: Buyer's Obligations

1. Upon delivery, the Buyer must immediately inspect the goods to verify whether they comply with the agreement, specifically:
 - a. Whether the correct goods have been delivered;
 - b. Whether the delivered goods meet the quality standards for normal use and/or trade purposes;
 - c. Whether the delivered goods match the agreed quantity (amount, weight). If the deviation is less than 10% of the total, the Buyer is obliged to fully accept the goods.
2. If the goods are delivered to a third party holding them on behalf of the Buyer, the Buyer is obliged to conduct or have conducted the inspection referred to in paragraph 1 on the day of delivery.
3. If the Buyer wishes to make a claim, they must notify the Seller as soon as possible after discovering the defect or upon reasonable discovery, but no later than 6 hours after delivery. If the notification was made orally, it must immediately be confirmed in writing (by telex, fax, letter, or bailiff's writ) to the Seller. The Buyer must include data logger information with the claim. Failure to do so within the specified timeframe, and/or failure to include data logger information, will result in the forfeiture of the right to claim.
4. The relevant lot must remain fully intact, and the Buyer must allow the Seller to inspect the goods.
5. The Buyer must always act as a diligent debtor in preserving the goods.
6. If a claim is unfounded, the Buyer is obliged to reimburse all costs incurred by the Seller.

GENERAL TERMS AND CONDITIONS OF SALE – FRESHCLUSIVE B.V.

Article 11: Seller's Liability

In cases of force majeure, the Seller is not liable for any damage suffered by the Buyer due to non-compliance. If the Seller is liable due to a breach of contract, the liability is limited to the amount charged to the Buyer in connection with the agreement. The Seller's liability is limited to direct damage and excludes consequential damages.

Article 12: Packaging

1. Packaging provided by the Seller, including pallets, crates, and boxes, subject to a deposit, will be returned at the current invoice price plus a fixed packaging fee, in accordance with applicable regulations. Packaging must be returned clean and suitable for fresh edible horticultural products.
2. For returns via the Seller's own transport, packaging must be sorted and ready for transport.
3. Packaging not supplied by the Seller will only be accepted if the Seller stocks the relevant products.

Article 13: Payment

1. Payment for delivered goods must be made within 30 days of the invoice date unless otherwise agreed in writing.
2. Each payment on outstanding invoices is deemed to satisfy the oldest outstanding items.
3. Offsetting any other claim the Buyer has or believes to have is not permitted unless the Seller has issued a credit note to the Buyer or a court ruling has awarded a sum to the Buyer.
4. If the payment term is exceeded, the Buyer owes interest equal to the Dutch statutory interest plus 1%, calculated on the total invoice amount for each month or part thereof that the Buyer is in arrears, without prejudice to the Seller's right to legal indemnification.
5. If the Buyer's financial condition raises concerns about future payments after concluding the agreement, the Seller is entitled to demand a bank guarantee or prepayment for the purchase price, regardless of the agreed payment terms. The Seller must give the Buyer three working days to comply, after which the Seller may refuse delivery and seek damages.

Article 14: Dissolution and Buyer's Liability

1. If the Buyer does not fulfill their obligations, the Seller has the right to suspend further deliveries. In such cases, the Seller is entitled to terminate the agreement by written notice and hold the Buyer liable for any losses, including lost profits, product damage, transport costs, commissions, legal and extrajudicial expenses, and all other direct or indirect costs related to the sale.
2. All extrajudicial costs incurred by the Seller in case of non-compliance by the Buyer are fully borne by the Buyer. These costs amount to 15% of the total sum owed to the Seller, with a maximum of EUR 5,000 for collection measures within the Netherlands and EUR 15,000 for collection measures outside the Netherlands, with a minimum of EUR 200.

Article 15: Governing Law

1. All purchase agreements between the Seller and the Buyer are exclusively governed by Dutch law. The agreements are considered concluded in the place of establishment of the Seller, where these agreements are executed regarding delivery and payment.
2. The Dutch text of these terms and conditions prevails in the event of any interpretation discrepancies.

Article 16: Disputes

All disputes arising from agreements with the Seller, including claims for overdue payments, will be exclusively settled by the Amsterdam District Court.