

## GENERAL TERMS AND CONDITIONS OF EXPLOSIVE FOODS B.V.

For all of the following, Explosive Foods B.V. Venlo, and its subsidiaries are individually and collectively referred to as Explosive Foods, as determined on 06-05-2019 and registered with the Chamber of Commerce.

### **Article 1 Applicability**

1. These general conditions apply to all offers and quotations by Explosive Foods and all agreements entered into by Explosive Foods, under whatever name. In particular, these conditions also apply to Explosive Foods agreements for the supply of products and services to customers of Explosive Foods. These conditions also apply to agreements with Explosive Foods which involve third parties for their implementation.

2. In these general conditions, reference to "customer" below means any natural or legal person who is in a contractual relationship with Explosive Foods, under an agreement concluded with Explosive Foods, and/or sales contract or other agreement. In particular, the term "customer" includes those on whose account and on whose behalf or by whose action, products and/or services are delivered.

3. The provisions in these terms may be waived only if and when Explosive Foods has expressly agreed or if this is agreed in writing with Explosive Foods. If the present terms and conditions are tacitly or expressly deviated from one or more times, the customer cannot derive any rights from agreements concluded subsequently. The applicability to the customer of any conditions would be explicitly excluded.

4. When these general terms and conditions refer to (delivery of) products, this also includes the provision of services and activities of any kind.

### **Article 2 Offers and conclusion of agreement**

1. The order made with Explosive Foods should be considered an offer. This offer may be considered accepted by Explosive Foods as soon as it has been confirmed in writing by Explosive Foods or when Explosive Foods has initiated the execution of the offer, recognizable for the customer. Should an order be placed electronically, Explosive Foods is not obliged to provide a confirmation of receipt thereof.

2. The contract is concluded as soon as Explosive Foods accepts the offer, the acceptance of which binds the customer. Acceptance may be made explicitly and implicitly. Tacit acceptance is deemed to have occurred if non-acceptance of the order is not communicated in writing by Explosive Foods to the customer within five days after receipt of their order.

3. Each agreement concluded with Explosive Foods contains the dissolving or suspending condition - at the discretion of Explosive Foods - that Explosive Foods will prove sufficient creditworthiness of the customer, and this reason, at the sole discretion of Explosive Foods; hence, Explosive Foods has the right to refuse an order from a customer.

4. Explosive Foods is entitled to require the customer to provide security for the fulfilment of his obligations, also and in particular after the conclusion of the agreement. If the security required by Explosive Foods is not met, Explosive Foods can suspend performance of its obligations and/or terminate the contract, without judicial

intervention, and without prejudice to any other rights for Explosive Foods arising from common law.

5. Information provided by Explosive Foods regarding the items offered, is provided to the best of its knowledge and done so with the utmost care, but will never be considered binding.

6. In exceptional cases, at the discretion of Explosive Foods, it may be agreed by Explosive Foods to cancel an order. This authorization must be given in writing. Cancellation of an order by the customer, will incur all costs and any damages and interest will be charged to the customer.

7. Agreements and/or commitments made by employees of or on behalf of Explosive Foods are binding only if these agreements and/or commitments have been confirmed in writing by those members of the management, authorized to represent Explosive Foods.

8. Explosive Foods reserves the right to refuse orders/deliveries without giving reasons. Any such refusal shall never give any right to compensation.

9. Without the express written consent of Explosive Foods, the customer is forbidden to transfer rights or obligations under agreements concluded with Explosive Foods to third parties, including to customer affiliates.

10. If two or more customers are contracted jointly, they are jointly and severally liable for the full performance of the contract concluded by them.

11. The customer authorizes Explosive Foods to carry out the assignment through a Explosive Foods third party/parties, at a time determined in consultation. The customer agrees to transfer to Explosive Foods third party/parties all rights and obligations arising from the agreement(s) concluded with the customer by Explosive Foods.

### **Article 3 Prices**

1. Unless expressly stated otherwise, prices are in euro currency, excluding VAT, according to the minimum basic volumes of the transport used by Explosive Foods, excluding costs of packaging and/or loaned packaging. Transport costs are not included, they are carried by the customer.

2. Unless otherwise provided for in the contract, the prices and delivery conditions which are present in the computer data of Explosive Foods at the date of delivery to the customer shall be applicable. For seasonal products, the prices can vary from day to day.

3. Prices and offers of products offered by Explosive Foods on a delivery document are not binding. Where there are differences between the delivery document and the invoice price, the invoice price is binding.

4. The quantities delivered and/or the weights are listed by Explosive Foods on the delivery documentation, unless Explosive Foods wishes to deviate from them. If the customer has not made known his objections within a maximum of 24 hours of receipt, the quantity or weight indicated on the delivery document is considered to correctly represent the delivery.

5. All agreed prices in the offer are binding unless one of the cost factors of the product changes during the period between the time of the offer and the time of delivery and the price increases as a consequence, over which Explosive Foods has no or little influence. In such cases, Explosive Foods has the right to adjust the agreed price

accordingly, whether the cost increase was or was not foreseeable at the time of the offer, taking into account any relevant legal requirements.

#### **Article 4 Delivery, delivery times and delivery risk**

1. Delivery:

a. will take place from Explosive Foods to the available address of the customer;

b. of the products sold will take place at the location where the business of the customer is located;

c. of the products will take place at a different location.

2. On delivery of the products to the address of the customer provided to Explosive Foods, if the customer does not immediately receive the products sold, he must, within five days after the date of notice of Explosive Foods to the customer that the products have been delivered, collect the products. If the customer fails to collect the products within the aforementioned period, Explosive Foods is entitled to €50 per pallet per week or part thereof to be charged as demurrage charges to the customer.

3. When delivery of the products sold takes place at the address of the customer, the delivery times specified by Explosive Foods will never be regarded as deadlines, unless expressly agreed otherwise in writing. The delivery periods specified by Explosive Foods commence when the contract has been concluded and all required information for the execution of the order is in the possession of Explosive Foods. Delay in delivery will be no reason for the customer to dissolve the agreement, unless Explosive Foods exceeds the limits of reasonableness. Delivery times may be extended and/or orders can be suspended during any time when the customer has left unpaid any amount due or that has become due to Explosive Foods.

4. For delivery of the products to the address of the customer, the mode of transport is determined by Explosive Foods. The customer must immediately take delivery of the products. The customer is obliged to ensure an adequate and accessible loading and unloading place and the shortest waiting time. If the waiting period is unreasonably expensive, the additional costs are borne by the customer, and Explosive Foods has the right to inform the customer of this. Transporting or in any way moving the products within the premises or the grounds of the customer is never included.

5. The delivery in batches of the products ordered permitted. Explosive Foods is entitled to immediately invoice the customer for the products already supplied.

6. If and when the products sold are delivered by Explosive Foods to the address of the customer (or, if the products are not taken immediately upon communication by Explosive Foods that they have been secured on his behalf), the risk is passed to the customer.

7. For delivery of the products sold to the address of the customer, the risk for the loading, transporting is carried by Explosive Foods and the risk of unloading is carried by the customer. Once the products have been unloaded at the premises of the customer, the risk passes to the customer. If the customer asks to have the products delivered to another place than the usual one, then Explosive Foods can charge the associated costs to the customer.

8. The customer is obliged to take delivery of the ordered and delivered products and to pay promptly in accordance with the agreed terms of payment, without any deduction or compensation. By payment of the invoice or by signing a delivery note, the customer confirms receipt of the products. If the customer fails to meet his obligation for purchase or payment, Explosive Foods is entitled to dissolve the agreement without judicial intervention.

9. Products incorrectly delivered by Explosive Foods can only be returned if they are accompanied by a Explosive Foods return form. Such products must comply with the following conditions:

- be accompanied by a copy of the delivery document, the date of which is not more than seven days ago;
- be in the original unopened containers;
- have not been priced by the customer;
- be part of the regular Explosive Foods range;
- be in good condition and be again saleable at normal prices;
- be returned within the time limits specified in Explosive Foods's brochure of conditions.

Brochure items can never be returned. In all situations mentioned in this article in which return of the products is not possible, an agreement of sale has been established between the customer and Explosive Foods, rendering the customer required to pay.

10. In the event of recall actions initiated by Explosive Foods due to product defects caused during manufacturing or packaging of the product, the customer should deal with the products in accordance with the recall procedure made known by Explosive Foods for such cases.

11. Explosive Foods is under no obligation to supply products if a third party agrees with a Explosive Foods customer to deliver products to them directly, while running the invoicing procedure through Explosive Foods.

12. If Explosive Foods is obliged by the customer or by the government to take back delivery of the product, its packaging, residual material and the like, then the associated costs, including any costs of destruction, will be carried by the customer.

#### **Article 5 Complaints and Claims**

1. The customer shall check on receipt of the products that the delivery corresponds with the order. Visible damage or defects that have already, at the time of purchase (in one of the premises of Explosive Foods) could have been observed, must be reported immediately by the customer. If the customer, upon opening the packaging or the products, breaks or damages them before they are paid for, he is required to accept delivery of the products and pay for them.

2. Upon delivery of the products to the address of the buyer, visible damages, defects or shortcomings must be made known to Explosive Foods in writing within 24 hours by the customer, failing which it will be considered fully proven that the customer received the products in good and undamaged condition, at least as far as visually recognizable from the outside.

3. Complaints can only be accepted if accompanied by a quality assessment including pictures of the alleged defects. Failing this, the right to complain will be expired.

4. Any claim of the customer to Explosive Foods related to errors in delivery or defects in products of Explosive Foods or delivered by Explosive Foods expires irrevocably when the claims deadlines mentioned above have expired, and also in situations where the customer has shown lack of cooperation with Explosive Foods with regard to an examination of the merits of the complaints. The products concerned must remain available for Explosive Foods for inspection, in the state and in the location at the time when the defects were discovered. The right to complain lapses after the customer has started using the supplied products, or has started processing or treating them, or has sold them to third parties, unless Explosive Foods has given an explicit agreement regarding any sustainable use to which a manufacturer's warranty applies.

5. If a complaint proves to be well founded and also complies with the procedures set out above as regards notifying of complaints, Explosive Foods, as soon as possible, at the discretion of Explosive Foods, will either remedy the defect or provide a replacement product, or, if the purchase price for the product has already been invoiced, will credit the amount corresponding to the complaint. The customer will have regard that in this kind of situation he will never be able to claim any compensation from Explosive Foods; Explosive Foods's liability is limited to the value of the products about which the complaint was made.

6. Claims and complaints give the customer no right to suspend payment of the relevant invoice, while compensation by Explosive Foods is expressly excluded. The claims deadline on the invoices sent by Explosive Foods shall not exceed five days from the day of receipt. If within that period no protest has been made against the invoice, this shall be deemed to indicate that the underlying transaction(s) with Explosive Foods are correct and are approved by the customer.

#### **Article 6 Retention**

1. The products supplied by Explosive Foods remain the property of Explosive Foods until the moment of full payment of the purchase price, including any interest and costs. The products delivered to the customer by Explosive Foods remain covered by the conditions until full payment of the purchase price, interest and costs by the customer. After full payment, ownership of the products delivered is passed to the customer; this payment shall be deemed always to relate to the longest outstanding invoice.

2. Once in possession of the customer, the Explosive Foods products are considered to be the same as those listed on the unpaid invoices, insofar as the quantity of products by type and composition held by the customer do not exceed that stated on the unpaid invoices.

3. The customer has no right to give unpaid products on his premises as a possessory pledge or establish any other rights on behalf of a third party.

4. The customer is not allowed to dispose of the not yet paid for products in the context of his normal business unless Explosive Foods has demanded of the customer in writing that he make the products available immediately.

5. The customer now grants Explosive Foods, in appropriate cases, the right to enter all those places

where the products supplied by Explosive Foods are located, in order to allow Explosive Foods to be able to exercise its rights and take back the unpaid products. In thus recovering the products, this does not limit the right of Explosive Foods to demand compensation from the customer for damages or costs incurred as a result of a failure attributable to the customer.

#### **Article 7 Invoicing and payment**

1. The invoicing of products and services will be done solely in the name and customer number unless Explosive Foods wishes to deviate from them. The payment of the final amount of the sales invoices of Explosive Foods shall be in cash or by the issuing of authorization of a direct debit, without any reduction or claim for compensation.

2. The aforementioned payment method may be waived only if and insofar as Explosive Foods expressly makes known to the customer a different payment method by means of an annual terms and conditions brochure or some other written form. In these cases, all payments must be made within the payment period that has been made known, calculated from the date of invoice.

3. The payment period made known to the customer can be regarded as a deadline. When paying by bank or by bank transfer or by direct debit, the day of credit value date for the invoice is considered by Explosive Foods to be the day of payment. The customer is not entitled to apply to Explosive Foods for a discount or compensation for such payments.

4. If the customer has not paid in time or in full in accordance with the foregoing, he is in default, without further notice of default or summons being required and the customer shall owe interest on the due amount of 1% per month from the moment of default.

5. All recovery of amounts owed and costs to be covered, in particular, extrajudicial costs, shall be borne by the customer. Extrajudicial costs are determined to be at least 15% of the amounts owed in principal, with a minimum of € 50.00, notwithstanding the right of Explosive Foods to charge the customer a more reasonable cost.

6. Any payment from the customer seeks first the payment of interest due and then the payment of any recovery costs, with the exception of court costs. Only after payment of these amounts is covered will any payment be made by the customer against the principal of the outstanding debt, which first will be amortized to the oldest outstanding claim, regardless of the description that the customer may have given the payment.

7. Explosive Foods is entitled to compensation of payable or recoverable amounts due, which Explosive Foods requires the customer to pay or that are owed.

#### **Article 8 Liability**

1. Explosive Foods accepts the legal obligation to pay damages only if and insofar as the customer proves that the damage was caused by gross or serious negligence by Explosive Foods. The resulting liability for damages is expressly limited to the amount of the order which has resulted in damages.

2. Any further liability of Explosive Foods for damages, including but not limited to liability for employees and

agents, shall be excluded, for whatever reason it arises, including all direct and indirect damage, such as consequential damage or trading loss. Furthermore, Explosive Foods's customer indemnifies against all claims by third parties in respect of these third party/parties for suffering or injury, taking into account all the provisions of this article.

3. Explosive Foods accepts no liability for the possible consequences of not having products in stock.

4. The customer must act during the (internal) transport and storage of products supplied by Explosive Foods in accordance with the applicable laws and regulations, including HACCP standards and storage conditions, failing which no liability can be accepted for (damage caused by) products which are defective.

5. If Explosive Foods deems that the customer is obliged to take measures or cooperate with recall actions initiated by manufacturers to prevent (further) damage resulting from claims of consumers on the basis of lack of products delivered, should this prove necessary or desirable, Explosive Foods will cooperate to insert the notice of liability of the producer, as required by such measures.

#### **Article 9 Force majeure**

1. Force majeure is understood to mean any circumstance beyond the control of Explosive Foods which is of such a nature that compliance with the agreement by Explosive Foods cannot reasonably be expected (so-called non-attributable failure to perform). Force majeure is defined as mobilization, war and threat of war, riots, strikes, terrorist attacks, demonstrations, lack of personnel, operating and transport disruptions of any kind, default by (sub)contractors, epidemics, obstructions caused by measures, laws or decisions of international, national or regional (government) bodies, fire, explosion, frost, snow nuisance, flood, storm damage and other natural disasters.

2. Should Explosive Foods, due to force majeure not be able to fulfil the agreement in a timely manner, Explosive Foods has the right to contract to perform at a later date, or dissolve the agreement, at the discretion of Explosive Foods. Explosive Foods in these or similar cases is entitled, entirely at the discretion of Explosive Foods, to terminate the contract after a reasonable period, without any compensation obligation, or to demand that the contract be adapted to the circumstances.

#### **Article 10 Default and termination**

1. Subject to the provisions of the civil code, Explosive Foods, in case of default by the customer, also has the right to suspend the contract or cancel it in whole or in part, at the discretion of Explosive Foods. Explosive Foods is then entitled to reimbursement for all damages.

2. As per paragraph 1 of this Article, Explosive Foods also has the right, if the customer is declared to be in bankruptcy or if the customer's payments are suspended or has applied for a judicial debt settlement, and his properties have been confiscated, his company has entered into liquidation or has been or is acquired by a third party or third parties, or if the customer intends to leave the Netherlands, in all these cases, for all claims Explosive Foods has against the customer to become immediately due and payable.

#### **Article 11 Conversion provision**

1. If any provision of these terms in whole or in part is qualified as unreasonably onerous by the court, it shall be deemed to be converted into a provision which, as far as possible while maintaining content and purport, is not considered unreasonably onerous.

2. In the event any provision of these conditions is qualified as unreasonably onerous by the court and paragraph 1 of this Article shall not be applicable, this shall not affect the validity of the remaining provisions of these terms and conditions.

#### **Article 12 Transfer and preclusion**

1. Explosive Foods is authorized to transfer its rights under contracts in whole or in part to third parties.

2. Any claim against Explosive Foods lapses, if within 12 months of receiving the claim Explosive Foods is not involved in proceedings related to that claim.

#### **Article 13 Applicable law, disputes and jurisdiction**

1. The agreements between Explosive Foods and the customer apply exclusively to Dutch law.

2. If there arises a dispute between Explosive Foods and the customer over the formation, interpretation, implementation of an agreement or lack of performance or issue of time between the parties or other legal relationship, or if one of the parties believes that such dispute exists, the party is obliged to seek a negotiated agreement before submitting the dispute to the civil court.

3. The court in Amsterdam has exclusive jurisdiction to hear disputes regarding agreements concluded with Explosive Foods, unless another judge is authorized to do so. Nevertheless Explosive Foods has the right to submit a dispute for decision to the relevant court in the domicile of the customer.

4. This document is a translation of the original Dutch General Terms & Conditions (Algemene Voorwaarden Explosive Foods International BV). The Dutch version will prevail whenever there is a divergent interpretation between these texts.

#### **Article 14 Location of terms and conditions**

1. These terms and conditions were established on 06-05-2019 and registered with the Chamber of Commerce. The last registered version and/or the version valid at the time of the conclusion of the contract with Explosive Foods is applicable.