

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY FRUBERO BULK GOODS

Latest version always available on www.frubero.be

1. General

1.1 These general terms and conditions are applicable to any and all proposals, offers, deliveries, and activities, all in the broadest sense of the word, of Frubero BVBA (hereinafter referred to as: "Frubero") as also to any and all (supplementary) agreements by and between Frubero and a contracting party.

2. Proposals

2.1 Any and all proposals and offers of Frubero are subject to contract.

2.2 If a sample was demonstrated or made available by Frubero then this is always by way of indication. This implies that the features of the goods to be delivered can deviate from it, as we are working with natural products. The range of natural colour, structure, and other differences within a natural product is one of the features of the natural product and does not give cause to liability or a complaint.

3. Prices and payment

3.1 Prices quoted by Frubero are exclusive of VAT and are based on delivery in conformity with the Incoterms 2010 DAP (Delivery At Place), unless specifically indicated otherwise.

3.2 Frubero is entitled, after the agreement has been concluded, to adjust the price or to rescind the agreement provided that a notice period of one (1) month following a registered letter is observed, if factors occur that justify this (e.g. failed harvests of specific fruits). The aforementioned factors include, but are not limited to, an increase in the commodity prices, labour and production costs, fuel expenses, import duties, taxes, currency and exchange rate fluctuations, etc. A change of the price shall not entitle the contracting party to any compensation.

3.3 Payment must take place within 30 days after the date of the invoice. Failing payment after the said period, the contracting party shall be in default by operation of law.

3.4 In case of non-payment of the invoices on their due date, compensation equal to 10% of the invoice amount, with a minimum of €40.00, shall be due and payable by operation of law and without any prior notice. In addition, default interest equal to the statutory interest shall be due and payable and the latter from the invoice date up to the day of payment in full. If, due to non-payment, Frubero discontinues the supply of services and/or the delivery of goods then it shall not be possible to, in any way whatsoever, claim any form of compensation from Frubero.

4. Delivery and delivery period

4.1 Delivery periods commence after the order confirmation by Frubero and after fulfilment by the contracting party of any and all conditions imposed on the same by Frubero.

4.2 Indicated delivery periods are indicative and cannot be qualified as a fatal deadline. An overstepping is not qualified as a failure and does not entitle to rescission or compensation for damages incurred by the contracting party or by third parties.

4.3 To the extent that, in derogation from article 4.2, Frubero would be subject to any liability for a late delivery, the liability shall always be limited to at most 2.5% of the order value, in the course of which liability for indirect damages, consequential damages, intangible damages, business losses or environmental damages or damages resulting from liability in respect of third parties is expressly excluded.

5. Cancellation

5.1 Cancellation of a contract by the contracting party is basically not possible. If the contracting party nonetheless cancels, either in whole or in part, then it shall be liable to compensate Frubero for any and all costs reasonably incurred in view of the performance of the relevant contract (including preparatory costs, storage expenses, already purchased stocks, and the like).

5.2 Without prejudice to the provisions set forth in article 5.1, cancellation costs shall be due and payable by the contracting party in case of cancellation. They amount to ten per cent (10%) of the principal sum, plus VAT.

6. Reservation of title and right of pledge

6.1 Frubero reserves the title of any and all goods delivered by Frubero to the contracting party. The title of the goods only transfers to the contracting party as soon as the latter has complied with all its payment obligations on account of this and similar agreements, including everything that the contracting party may be liable to pay in connection with the failure to comply with its obligations pursuant to the said agreements. Regardless of the said reservation of title, the delivered goods are at the risk of the contracting party from the moment of delivery.

6.2 As long as the delivered goods are subject to reservation of title, the contracting party cannot sell, hire out or otherwise encumber them without the express consent of Frubero.

6.3 The contracting party must forthwith inform Frubero if an attachment is imposed on the goods delivered by the

latter that are still subject to reservation of title. The contracting party must moreover forthwith inform the attaching party of the fact that the title of the attached goods is vested in Frubero.

7. Warranty

7.1 The contracting party must inspect (have inspected) the goods delivered by Frubero upon delivery. In this respect, the contracting party must verify as to whether the delivery of Frubero corresponds with the agreement. Upon delivery the contracting party must perform a normal common acceptance sampling. Deficits, damages, or other shortcomings must be recorded by the contracting party on the consignment note or, should this not be possible, be reported in writing within two working days, failing which the goods were deemed to have been delivered in a good condition.

7.2 If shortcomings that were not or could not have been detected during a normal common acceptance sampling become apparent within a period of two months after delivery then Frubero shall be held to deliver a new product, to supply a new service, or to remedy the shortcoming.

7.3 Warranty claims deriving from the shortcoming as intended in article 7.2 must be communicated in writing whilst providing an explanation within eight (8) days after discovery.

7.4 Each and every right to warranty expires in case of a negligent or inadequate acceptance sampling or in case of incorrect use or incorrect storage of the delivered goods, including but not limited to use other than according to the designated use, rule, or instruction.

7.5 If the contracting party is not the end user of the delivered good then the costs associated with the replacement, to the extent that they are related to the fact that the good is not available at the contracting party, shall be at the expense of the contracting party.

8. Suspension and rescission

8.1 Frubero is entitled to suspend the delivery of its performances if the contracting party fails to comply with the implementation of an obligation vested in the contracting party pursuant to the present or any other obligation in place in respect of Frubero. As the occasion arises, Frubero shall be entitled to implement price increases and time limit extensions resulting from the same.

8.2 If Frubero has reasonable doubt about the payment capacity of the contracting party then it shall be entitled to suspend its obligations until the contracting party has provided sufficient security.

8.3 If the contracting party does not comply with its obligations in pursuance of the previous paragraphs within a reasonable period of time, or in case of insolvency (a winding-up petition) or suspension of payment of the contracting party, then Frubero shall be entitled to rescind the agreement with immediate effect without being liable to

pay any compensation.

9. Liability

9.1 Barring in the instance of intent or gross negligence on the part of Frubero, Frubero shall never be liable for any damages incurred by the contracting party. Liability for indirect damages, consequential damages, intangible damages, business losses or environmental damages, or damages as a result of liability in respect of third parties, is moreover expressly excluded.

9.2 If and to the extent that, despite the provisions set forth in article 9.1, Frubero shall be subject to any liability, on any account whatsoever, then the said liability shall be limited to an amount of at most the net invoice value of the relevant delivery. Article 4.3 remains in full force and effect in case of potential liability for a late delivery.

9.3 Claims must be reported to Frubero in writing within two (2) months after the moment that the contracting party has been able to discover the damages, subject to forfeiture of each and every claim for compensation.

9.4 The contracting party shall indemnify Frubero against claims of third parties that exceed the scope of the liability as intended in the first paragraph of this article.

9.5 Any and all claims of the contracting party with regard to the alleged liability of Frubero shall in any case expire one year after the damages have been discovered and the contracting party has not instituted proceedings on the merits against Frubero within the said year.

10. Force majeure

10.1 Frubero shall not be held to comply with an obligation on account of an agreement, if it is prevented from doing so as a result of force majeure.

10.2 For the purpose of this article force majeure is understood as circumstances that are of such nature that the implementation of an agreement consequently becomes impossible or so burdensome and/or disproportionately expensive that compliance with the agreement can reasonably no longer or not immediately be required of Frubero.

10.3 Force majeure is in any case understood to include - but is not limited to:

- impediments by third parties and comparable situations;
- transport difficulties, including delays at national borders and comparable situations;
- impediments due to unforeseen technical complications and comparable situations;
- qualitative rejection by Frubero of the goods to be delivered;
- stagnation due to cold-weather related downtime and other weather conditions;
- the circumstance that Frubero does not receive a performance of a third party or not in a timely fashion or not properly, which is important in connection with the performance to be delivered by Frubero and comparable

situations.

10.4 The contracting party is not entitled to rescind the agreement, unless (1) the contracting party can demonstrate that earlier compliance is of essential importance to its business operations, and (2) the situation of force majeure moreover appears to not come to an end within a foreseeable period of time (60 days). As the occasion arises, rescission must take place in writing. As the occasion arises, the contracting party must pay compensation for the damages of Frubero as a result of the rescission.

11. Recall

11.1 The contracting party commits to assist Frubero in the performance of a potential recall. In this respect, the buyer commits to keep adequate files for a period of at least five (5) years after the date of sale and/or use of the delivered goods for the traceability of the delivered goods. The files do, at least, contain information about the sale and/or use dates, quantities, batch numbers, and batch specifications, and any and all other information that may be required in the context of a potential recall. Frubero shall always be authorised to inspect the said files or to receive a copy from the contracting party.

11.2 In case of a recall, the contracting party shall lend its complete cooperation in order that the relevant recall can be carried out immediately and effectively. This includes:

- within four (4) hours after Frubero has informed the contracting party of the recall, the contracting party shall inform Frubero of the parties to which the contracting party delivered the goods that fall under the recall;
- the contracting party shall immediately discontinue and keep discontinued the use and/or the sale of goods that fall under the recall;
- the contracting party shall forthwith, however at the latest within twenty-four (24) hours after Frubero has communicated the recall, remove the goods that fall under the recall from the market and/or discontinue the use of the same, isolate them from other goods, and provide them with a label with the text “in quarantine / blocked” in order that the goods to be taken back cannot be used and/or sold and can be picked up by Frubero;
- at the request of Frubero, the contracting party shall destroy the goods that fall under the recall in accordance with the instructions given by Frubero. If Frubero requires the foregoing then a representative of Frubero shall monitor the destruction and the contracting party shall submit proof of destruction;
- the contracting party shall carry out so-called stock counts in order to be certain that all goods that fall under the recall were identified and removed from the shelves;
- The contracting party shall always provide staff and representatives of Frubero access to its buildings in order that they can check as to whether the recall has been sufficiently effective. The contracting party shall provide the

staff and representatives any and all assistance in connection therewith;

- the contracting party ensures that its staff who are directly or indirectly responsible for the recall are informed of the recall procedure outlined in these terms and conditions;
 - if the contracting party does not lend its full and immediate cooperation in the conditions specified in this article then Frubero shall hold the contracting party liable for any and all damages that Frubero incurs respectively shall incur, including but not limited to damages on the basis of the product liability rules and damages as a result of negligence.
- 11.3 Frubero shall only be liable to compensate the contracting party to the extent that the contracting party complies with any and all requirements as outlined in this article. Liability of Frubero in case of a recall shall be limited to payment of the price for which the contracting party purchased the goods that fall under the recall, or replacement of the goods, such at the discretion of Frubero.

12. Intellectual property

12.1 Frubero reserves any and all intellectual property rights in respect of the goods made available or produced by the same, including but not limited to samples, designs, recipes, images, drawings, models, and software. Any and all carriers of intellectual property are or become the property of Frubero and cannot be copied, shown to third parties, or otherwise be used without its express consent, irrespective of the fact as to whether costs were charged to the contracting party for the production or availability. The contracting party is required to return the said carriers on demand of Frubero.

13. Choice of law and forum

13.1 Belgian law is applicable to the proposals, offers, deliveries, and (supplementary) agreements and the implementation of the same, and to these general terms and conditions of sale and delivery. The applicability of the Vienna Sales Convention is excluded.

13.2 With the exclusion of any other forum, the District Court of Kortrijk is competent to rule in the first instance on each and every dispute that arises between Frubero and the contracting party.