

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY of FOODMATE B.V. Version May 2011

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1. General provisions

1.1. Where these General Terms and Conditions of Delivery form part of offers and agreements in respect of the delivery of goods and/or services by the contractor, all provisions of these terms and conditions shall be in force between the parties, insofar as both parties have not explicitly deviated there from in writing. The contractor explicitly rejects any reference by the client to its own purchase conditions, conditions of tender or other terms and conditions.

1.2. In these general terms and conditions of delivery, the following term shall have the meaning given below:

- Product: goods, as well as services, such as maintenance, advice and inspection.

In these terms and conditions of delivery, the following definitions shall also apply:

- The contractor: Foodmate B.V.
- The client: the party to which the aforementioned offer is sent;
- Service: contracting for work.

2. Offer

2.1. Each offer sent out by the contractor is without obligation and shall be valid for thirty days unless explicitly stated otherwise -and is based on the information provided in the request for an offer, where applicable. The contractor reserves the right to withdraw an offer made by it within seven days of acceptance by the client.

2.2. Each offer is based on the execution of the agreement by the contractor under normal conditions and during normal working hours.

3. Agreement

3.1 Unless the contractor revokes an offer in accordance with the provisions of clause 3.2 of these terms and conditions of delivery, agreements that have been concluded in writing shall be deemed to have come into effect on the date on which they were signed or on the date on which the written order confirmation was sent by the contractor.

3.2 Anything delivered and/or installed by the contractor, in consultation with the client whether or not this is laid down in writing -during the execution of the agreement over and above the quantities

explicitly laid down in the contract or the order confirmation, or work carried out by the contractor over and above the work explicitly laid down in the contract or the order confirmation, shall be regarded as additional work.

3.3 Verbal promises made by and arrangements agreed with employees of the contractor shall not be binding on the contractor until and insofar as these have been confirmed by it in writing.

3.4 Should an agreement not be laid down in writing and the contractor nevertheless, with the consent of the client, starts to execute the order or deliver the goods, the content of the offer that will have been issued by the contractor shall be deemed to have been agreed.

3.5 Obligations which are, given their nature, intended to remain in force even after the termination of the agreement, shall continue to apply even after the agreement has come to an end.

4. Price

4.1 The prices given by the contractor are exclusive of VAT and other government taxes payable on sale and delivery and are based on delivery ex works in accordance with the Incoterms applicable on the date of the offer, except insofar as these terms and conditions provide otherwise. Works shall be understood to mean the contractor's business premises.

4.2 Should one or more of the cost price factors increase after the date on which the agreement came into effect -even if this is the result of foreseeable circumstances the contractor shall be entitled to increase the agreed price accordingly.

4.3 The agreement lays down the contractor's right to charge separately for additional work carried out by it, as soon as it knows the amount to be charged for this. The rules laid down in subclauses 1 and 2 of this clause shall apply to the amount charged for additional work mutatis mutandis.

4.4 The client shall not be charged separately for cost estimates and plans, unless agreed otherwise. **Should** the contractor have to produce new drawings, calculations, descriptions, models or tools and suchlike for any repeat orders, the client shall be charged for this.

4.5 The packaging is not included in the price and the client shall be charged separately for this. Packaging shall not be taken back.

4.6 The contractor is entitled to charge administration costs of EUR 25,00 for orders below EUR 250,00.

4.7 The cost of loading, unloading and transporting raw materials, semi-finished products, models, tools and other goods made available by the client is not included in the price and shall be charged separately. Costs paid by the contractor in this respect shall be regarded as an advance payment to be paid by the client.

4.8 Should the contractor have agreed to assemble the product, the price shall be calculated including assembling the product and making it ready for operation at the place specified in the offer, including all costs with the exception of those costs that are not included in the price in accordance with the preceding sub clauses or which are specified in clause 7. Costs incurred because work cannot be carried out as a result of weather conditions shall be passed on to the client.

5 Drawings, calculations, descriptions, models, tools and suchlike

5.1 Information given in catalogues, illustrations, drawings, specifications of size and weight etc. shall only be binding if and insofar as this has been explicitly included in a contract signed by the parties or an order confirmation signed by the contractor.

5.2 The offer issued by the contractor, as well as the drawings, calculations, software, descriptions, models, tools and suchlike produced or provided by the contractor shall remain its property, regardless of whether the client has been charged for these. The contractor reserves all rights in respect of the information contained therein or on which the manufacturing and construction methods, products and suchlike are based, even if the client has been charged for this. The client warrants that the said information will not be copied, shown to third parties, disclosed or used without the written consent of the contractor, except for the purpose of executing the agreement.

6 Delivery period

6.1 The delivery period shall commence on the latest of the following dates: a. The date on which the agreement comes into effect; b. The date of receipt by the contractor of the documents, information, permits and suchlike required for the execution of the order; c. The date on which the formalities required for the work to be started are completed; d. The date of receipt by the contractor of the advance payment(s) to be made, pursuant to the agreement, prior to the start of the work. Should a delivery date or week have been agreed, the delivery period shall be the period between the date on which the agreement comes into effect and the delivery date or week.

6.2 The delivery period is based on the working conditions applicable when the agreement was concluded and on the timely delivery of the materials ordered by the contractor for the execution of the work. Should, through no fault of the contractor, there be a delay as a result of changes to the said working conditions or as a result of the late delivery of materials that were ordered in good time for the execution of the work, the delivery period shall be extended as necessary.

6.3 As far as compliance with the delivery period is concerned, the product shall be deemed to have been delivered when it is ready for inspection, if inspection on the contractor's premises has been agreed, and in all other cases when it is ready for shipment, all this once the client has been notified of this in writing and without prejudice to the contractor's duty to fulfill any assembly/installation obligations.

6.4 Without prejudice to the other provisions of these terms and conditions regarding the extension of the delivery period, the delivery period shall be extended by the length of the delay that arises on the part of the contractor as a result of the client's failure to fulfill any obligations arising from the agreement or to provide any assistance to be asked of it in respect of the execution of the agreement.

6.5 Should the delivery period be exceeded, this shall not give the client the right to dissolve the agreement in whole or in part, except in the case of gross negligence on the part of the contractor. Furthermore, should the delivery period be exceeded -for whatever reason -the client shall not be entitled to carry out work to execute the agreement or arrange for such work to be carried out, unless it has judicial authorization for this.

6.6 A contractual penalty to be paid should the delivery period be exceeded shall be deemed to replace any right of the client to compensation. Such a penalty shall not be payable if the delivery period has been exceeded as a result of force majeure.

7. Assembly/installation

7.1 The client shall be responsible vis-à-vis the contractor for putting in place, correctly and in good time, all the equipment and facilities and/or fulfilling the conditions that are necessary to set up the product to be assembled and/or for the correct operation of the product in its assembled state, except if and insofar as this is done by or on behalf of the contractor in accordance with information provided and/or drawings produced by or on behalf of the latter.

7.2 Without prejudice to the provisions of subclause 1, the client shall in any event ensure, at its own expense and risk, that:

- a) The contractor's personnel can start work as soon as they arrive at the place where the product is to be set up, and can continue to carry out their work during the normal working hours and, should the contractor deem this necessary, outside the normal working hours, provided that the contractor has notified the client of this in good time;
- b) Suitable accommodation and/or all the facilities required pursuant to government regulations, the agreement and general custom are available for the contractor's personnel;
- c) The access roads to the place where the product is to be set up are suitable for the required transportation;
- d) The designated place where the product is to be set up is suitable for storage and assembly;
- e) The required lockable storage areas are available for materials, tools and other items;
- f) The necessary and usual ancillary personnel, auxiliary tools and materials and operating materials (including fuel, oil and grease, cleaning materials and other consumables, gas, water, electricity, steam, compressed air, heating, lighting etc.), and the measuring and testing equipment normally used in the client's business are available to the contractor at the correct location in good time and free of charge;
- g) All necessary safety and precautionary measures have been taken and will remain in force, as well as that all measures have been taken and will remain in force that are necessary to comply with the applicable government regulations within the framework of the assembly/installation;
- h) The products sent are in the right place at the start of and during the assembly.

7.3 Loss or damage and costs that have arisen as a result of the client's failure to comply with the conditions laid down in this clause or to comply with these conditions in good time, shall be for the account of the client.

7.4 Clause 6 shall apply mutatis mutandis to the assembly/installation period .

8. Inspection and acceptance test

8.1 The client shall inspect the product no later than 14 days after the delivery as referred to in clause 6 subclause 3 or -if assembly/installation has been agreed -within 14 days of the assembly /

installation. Should this period have expired without the client having submitted any well-founded, specified complaints in writing, the product shall be deemed to have been accepted.

8.2 Should an acceptance test have been agreed, the client shall, after receipt or, if assembly/installation has been agreed, after the assembly/installation, give the contractor the opportunity to carry out the necessary tests, as well as to make the improvements and changes that the contractor deems necessary. The acceptance test shall be carried out in the presence of the client as soon as the contractor requests this. If the acceptance test has been carried out without any specified and well-founded complaints, as well as if the client does not fulfill its aforesaid obligations, the product shall be deemed to have been accepted.

8.3 The client shall make the necessary facilities, including those referred to in clause 7 subclause 2 (f), as well as representative samples of any materials to be treated or processed available to the contractor for the acceptance test and any other tests in good time, to the required extent, free of charge and in the right place, so that the conditions of use anticipated by the parties for the product can be simulated as accurately as possible. Should the client fail to comply with this obligation, the last sentence of subclause 2 shall apply.

8.4 Should insignificant defects be discovered, in particular defects that have little or no effect on the anticipated use of the product, the product shall be deemed to have been accepted regardless of these defects. The contractor shall nevertheless remedy such defects as quickly as possible.

8.5 Without prejudice to the contractor's duty to fulfill any guarantee obligations, acceptance in accordance with the above subclauses shall exclude any claim on the part of the client in respect of any failure to perform on the part of the contractor.

9. Passing of risk and transfer of ownership

9.1 As soon as the product is deemed to have been delivered as defined in clause 6 subclause 3, the client shall bear the risk in respect of any direct or consequential loss or damage that may arise with regard to the is product, except insofar as this is attributable to gross negligence on the part of the contractor. Should the client fail to take delivery of the product after having been given notice of default, the contractor shall be entitled to charge the client the cost of storing the product.

9.2 Without prejudice to the provisions of the previous subclause and clause 6 subclause 3, ownership of the product shall only pass to the client once all the amounts owed by the client to the contractor in respect of deliveries or work, including any interest and costs, have been paid to the contractor in full.

9.3 The contractor shall be entitled to have unhindered access to the product as and when necessary. The client shall give the contractor all the assistance necessary to enable the contractor to exercise the retention of title referred to in subclause 2 by taking back the product, including any dismantling required for this.

10. Payment

10.1 Unless agreed otherwise, the agreed price must be paid in 2 installments: 1/3 (one third) within 7 days of the date on which the agreement comes into effect; 2/3 (two thirds) within 14 days of the delivery in accordance with clause 6 subclause 3.

10.2 Payment for additional work shall be due as soon as the client has been charged for this.

10.3 All payments must be made without any deduction or set off at the offices of the contractor or into an account to be designated by it.

10.4 Should the client not make payment within the given periods, it shall be deemed to be in default by operation of law and the contractor shall be entitled, without any notice of default being required, to charge the client interest at the rate of 4 points above the promissory note discount rate of De Nederlandsche Bank with effect from the due date and to charge the client any judicial and extrajudicial costs incurred in respect of the collection of the amount owed by the client.

11. Guarantee

11.1 The guarantee provisions laid down by the manufacturer shall apply to delivered products with a manufacturer's guarantee. In all other cases, including the provision of services, the contractor shall not provide any guarantee unless explicitly agreed otherwise in writing.

11.2 The contractor shall remedy any defects covered by a guarantee by repairing or replacing the defective part, either on the contractor's or the client's premises, or by sending a replacement part, at the discretion of the contractor. All costs over and above those relating to the single obligation described in the previous sentence, such as, but not limited to, transport costs, travel and accommodation expenses and the cost of dismantling and assembly, shall be for the account of the client.

11.3 Should the client fail to fulfill any of its obligations arising from the agreement concluded with the contractor or a related agreement, or fail to fulfill such obligations on time or properly, the contractor shall not be bound by any guarantee -whatever this may be called -in respect of any of these agreements. Should the client have dismantled, repaired or carried out other work on the product, or arranged for this to be done, without the prior written consent of the contractor, any claim under a guarantee shall lapse.

11.4 Any complaints must be submitted to the contractor in writing and by registered post within 14 days of receipt of the products or of the invoices relating thereto, giving a detailed description of the facts and circumstances to which the complaint relates. Should submitted complaints not comply with the above, any claim against the contractor in respect of the defects in question shall lapse. Legal proceedings relating to such complaints must be instituted within 1 year of the timely submission of the complaint in question; should this not be done, the client's right to institute proceedings shall lapse.

11.5 Should the contractor replace parts/products in order to fulfill its obligations under a guarantee, the replaced parts/products shall become the property of the contractor.

11.6 An alleged failure on the part of the contractor to fulfill its obligations under a guarantee shall not release the client from the obligations incumbent upon it pursuant to any agreement concluded with the contractor.

12. Liability

12.1 Any liability on the part of the contractor, such as for trading loss, other consequential loss or damage and loss or damage as a result of liability vis-à-vis third parties, shall be excluded, except in the case of intentional acts or omissions or gross negligence on the part of the contractor and subject to the provisions of clause 11.1.

12.2 Without prejudice to the above, the contractor shall in any event never be liable:

- For the infringement of patents, licenses or other rights of third parties as a result of the use of information provided by or on behalf of the client;
- For the loss of or damage to raw materials, semi-finished products, models, tools and other goods made available by the client, regardless of the cause of such loss or damage;
- Should the client itself or a third party repair or make changes to the delivered product, use this for purposes other than that for which it is suited or intended, overload the delivered product or otherwise use the product injudiciously;
- For advice provided by the contractor; on account of a failure to deliver (on time);
- For property belonging to third parties which is on the business premises of the contractor and/or the business premises of the client for repair, storage or for any other reason whatsoever.

12.3 Should the contractor, without having been instructed to carry out the assembly, nevertheless provide assistance and support - of any kind whatsoever - during the assembly of the product, this shall be provided at the risk of the client.

12.4 The client shall be obliged to indemnify the contractor against or compensate the contractor for all claims of third parties for compensation for loss or damage, where the contractor's liability for such loss or damage has been excluded in its relationship with the client in these terms and conditions.

12.5 Should the contractor, notwithstanding the above, be liable for any loss or damage in any instance, it shall only accept liability insofar as such liability is covered by its insurance, up to the amount of the compensation paid by the insurance.

12.6 Should no compensation be paid out under the insurance in any instance, the contractor shall never be liable for more than the invoiced amount, excluding VAT, for the agreement in question.

13 Force majeure

13.1 In these General Terms and Conditions of Delivery, force majeure shall be understood to mean any circumstances beyond the control of the contractor -even if such circumstances could already be foreseen when the agreement came into effect -that make it temporarily or permanently impossible to fulfill the agreement, as well as, insofar as these are not already covered by the above, war, threat

of war, civil war, floating ice, import barriers, riot, strikes, lock-outs, government measures, transport problems, fire and other serious disruptions in the business of the contractor or its suppliers.

14 Suspension and dissolution

14.1 Should it be impossible to execute the agreement as a result of force majeure, the contractor shall be entitled, without judicial intervention being required, either to suspend the execution of the agreement for a maximum of 6 months, or to dissolve the agreement in whole or in part without being obliged to pay any compensation. During the period of suspension, the contractor shall be entitled, and at the end of this period, obliged to choose either to execute the agreement or to dissolve the agreement in whole or in part.

14.2 Should the agreement be suspended or dissolved pursuant to subclause 1, the contractor shall be entitled to demand immediate payment for the raw materials, parts and other goods and materials set aside, processed and manufactured by it in order to execute the agreement, according to the value that must reasonably be attributed thereto. Should the agreement be dissolved pursuant to subclause 1, the client shall be obliged, after paying the relevant amount, to take possession of the goods covered by such payment. Should the client fail to do so, the contractor shall be entitled to have these goods stored at the expense and risk of the client or to sell these for the account of the client.

14.3 Should the client fail to fulfill any of its obligations arising from the agreement concluded with the contractor or a related agreement, or fail to fulfill such obligations on time or properly, or should there be good reason to fear that the client is not or will not be able to fulfill its contractual obligations vis-à-vis the contractor -as well as should the client go into liquidation, be granted a moratorium on payment, or should its business be closed down, wound up or partially transferred - as security or otherwise -including the transfer of a significant part of its receivables, the contractor shall be entitled, without notice of default or judicial intervention being required, either to suspend the execution of each of these agreements for a maximum of 6 months, or to dissolve these in whole or in part, without being obliged to pay any compensation or being bound by any guarantee and without prejudice to the other rights to which it is entitled. During the period of suspension, the contractor shall be entitled, and at the end of this period, obliged to choose either to execute the suspended agreement(s) or to dissolve these agreement(s) in whole or in part.

14.4 In the event of suspension pursuant to subclause 3, the agreed price shall become immediately due and payable, after deducting the installments already paid and the costs saved by the contractor as a result of the suspension, and the contractor shall be entitled to have the raw materials, parts and other goods and materials set aside, processed and manufactured by it in order to execute the agreement stored at the expense and risk of the client. In the event of dissolution pursuant to subclause 3, the agreed price shall -if execution of the agreement(s) was not previously suspended - become immediately due and payable, after deducting the installments already paid and the costs saved by the contractor as a result of the dissolution, and the client shall be obliged to pay the amount described above and to take possession of the goods covered by this payment. Should the client fail to do so, the contractor shall be entitled to have these goods stored at the expense and risk of the client or to sell these for the account of the client.

14.5 The client shall not be entitled to demand the dissolution of the agreement with retroactive effect.

15. Disputes

15.1 Subject to the applicability of subclause 2 of this clause and without prejudice to the possibility of applying to the President of the competent District Court for a preliminary injunction in interlocutory proceedings, all disputes that may arise in connection with an agreement to which these terms and conditions of delivery are wholly or partially applicable, or in connection with further agreements resulting from such an agreement, shall be settled by an arbitration tribunal, to the exclusion of the ordinary court. This arbitration tribunal shall be appointed in accordance with the regulations of the Court of Arbitration for the Metal Trade and Industry (Stichting Raad van Arbitrage voor Metaalnijverheid en -Handel), established in The Hague, and shall pass judgement with due observance of the regulations of this Court.

15.2 Insofar as the disputes described in the preceding subclause fall, according to the rules of the Dutch law of civil procedure, under the subject-matter competence of the subdistrict court, the subdistrict court shall have exclusive jurisdiction to settle the dispute.

16. Applicable law

16.1 All agreements to which these terms and conditions wholly or partially apply shall be governed by Dutch law, as applicable to the Kingdom of the Netherlands in Europe.

17. Chamber of Commerce

17.1 As registered; nr. 24402765, at the Chamber of Commerce in Rotterdam, the Netherlands.