

General Terms and Conditions of Sale HillFresh

Article 1 Definitions

- 1.1 For the purpose of these general terms and conditions of sale “buyer” is understood as: the other party of the seller under a (sale and purchase) agreement.
- 1.2 “Seller” is understood as: HillFresh International B.V. in Barendrecht and/or related natural persons who or related legal entities that use these general terms and conditions of sale.

Article 2 Applicability

- 2.1 These general terms and conditions of sale are applicable to each and every legal relationship between the seller and the buyer. It is an established fact between the seller and the buyer that once these general terms and conditions of sale are applicable to a legal relationship in place between them, including but not limited to a (sale and purchase) agreement, they shall also apply in full to later legal relationships.
- 2.2 Deviations from these general terms and conditions of sale are only valid if they were stipulated in writing. In case of a discrepancy between the provisions set forth in these general terms and conditions of sale and a (sale and purchase) agreement, the provisions set forth in the relevant (sale and purchase) agreement shall prevail.
- 2.3 To the extent that these general terms and conditions of sale were also drawn up in a language other than Dutch, the Dutch text shall always be decisive in case of discrepancies.

Article 3 Conclusion of the (sale and purchase) agreement

- 3.1 Acceptance of an offer of the seller can only take place upon acceptance of these general terms and conditions of sale. Any and all offers and proposals of the seller are valid during a period of thirty (30) hours, unless an offer or proposal indicates otherwise. An offer or proposal issued later shall replace a previous offer or proposal (as a result of which the previous offer or proposal expires, irrespective of the fact if the previous offer or proposal contains a period for acceptance and irrespective of the fact if the buyer has already sent a communication of acceptance.
- 3.2 Any and all proposals of the seller, also including brochures and price lists, are subject to contract and can be revoked without specific formalities. Apparent mistakes, e.g. typing errors, in offers, proposals or other expressions of the seller shall not have binding effect on the same.
- 3.3 If an offer contains a proposal subject to contract and it is accepted then the seller shall be entitled to revoke the offer within two working days after receipt of the acceptance.
- 3.4 Oral commitments of employees of the seller shall only have binding effect on the seller after and to the extent that they have been confirmed to the buyer in writing by the seller.
- 3.5 If and to the extent that multiple buyers are jointly a party to the (sale and purchase) agreement, all buyers concerned shall be jointly and severally liable in respect of the seller for any and all (payment) obligations deriving from the relevant (sale and purchase) agreement.

Article 4 Applicable law, disputes

- 4.1 Dutch law is exclusively applicable to the legal relationship between the seller and the buyer, which does not prejudice the provisions set forth in article 11.4 of these general terms and conditions of sale. The applicability of the Vienna Sales Convention is excluded.
- 4.2 Any disputes between the seller and the buyer shall exclusively be settled by the competent court in Rotterdam, including any preliminary relief, barring exceptions pursuant to mandatory statutory provisions.

Article 5 Delivery, packaging, and risk

- 5.1 The goods sold by the seller are delivered Ex Works (“EXW”) according to the version of the Incoterms applicable at the moment of conclusion of the (sale and purchase) agreement, unless expressly stipulated otherwise in writing. Delivery periods and other periods are only indicated approximately. They can never be qualified as a fatal deadline. The mere overstepping of an indicated or stipulated period shall not cause the seller to be in default and shall neither result in an attributable failure to comply.

- 5.2 Multi-use packaging delivered via the seller (including pallets, crates, and boxes) subject to a returnable deposit are taken back at the price applicable at the moment of return, potentially increased by a fixed packaging fee, all on the condition that the packaging has not been damaged and is suitable for reuse.
- 5.3 The buyer is required to take delivery of the sold goods at the moment that they are delivered to the same or at the moment that they are made available to the same pursuant to the (sale and purchase) agreement. If the buyer refuses to take delivery or fails to provide information or instructions necessary for the delivery then the goods shall be stored at the risk of the buyer. As the occasion arises, the buyer shall be liable to pay any and all additional expenses, including in any case storage costs. If delivery has not been taken of the goods or if the goods have not been picked up by or on behalf of the buyer after expiry of forty-eight (48) hours then the seller shall be entitled to destroy or resell the goods to a third party (third parties), without being liable to pay any compensation (for damages) to the buyer.
- 5.4 The risk with regard to the sold goods transfers at the moment that they are made available to the buyer by or on behalf of the seller.

Article 6 Complaints

- 6.1 The buyer must inspect (have inspected) the sold goods upon delivery - or as soon as possible thereafter. In this respect the buyer must verify if the delivered goods comply with the sale and purchase agreement, i.e.:
- whether the correct goods were delivered;
 - whether the delivered goods correspond, in terms of quantity, with that which was established in the (sale and purchase) agreement;
 - whether the delivered goods comply with the stipulated quality requirements or - if these quality requirements were not stipulated - with the requirements that can be imposed on the goods on the basis of the (sale and purchase) agreement.
- 6.2 If defects or shortcomings are observed then the buyer must report these to the seller in writing within 24 hours after delivery, failing which the buyer can no longer rely on the relevant non-compliance with the (sale and purchase) agreement.
- 6.3 If and to the extent that the seller deems a complaint of the buyer about the delivered goods to be well-founded then the goods that do not comply with the (sale and purchase) agreement are taken back by or on behalf of the seller or - exclusively at the discretion of the seller - the seller offers financial compensation for the number of products to which the complaint is related.

Article 7 Force majeure

- 7.1 Circumstances beyond the control of the seller and/or not through its fault, which are of such nature that compliance with the (sale and purchase) agreement can reasonably no longer be required or no longer to its full scope, shall entitle the seller to rescind the (sale and purchase) agreement either in whole or in part and/or to suspend the implementation of the same, without any obligation to pay compensation. If a situation of force majeure has continued for more than fourteen (14) days then both the seller and the buyer are entitled to terminate a (sale and purchase) agreement by rescinding it. The performance that has already been delivered in respect of the (sale and purchase) agreement is then, as the occasion arises, settled proportionately, without the parties being liable to pay (additional) compensation.
- 7.2 Circumstances as intended in article 7.1 include, but are not limited to: non- or incomplete and/or delayed delivery by a supplier of the seller, war and the threat of war, full or partial mobilisation, import and export bans, measures of Dutch and/or foreign official authorities, irrespective of the said measures directly being aimed against or at the business of the seller, which render the implementation of the (sale and purchase) agreement impossible, more burdensome or more expensive than anticipated upon the conclusion of the (sale and purchase) agreement, frost, industrial action and/or lockouts, epidemics, traffic disruptions, loss or damage during transport, fire, theft, disruptions in the power supply, defects of machinery, all both at the business of the seller and at third parties of whom the seller purchases the goods in their entirety, and more-over any and all causes beyond the control and/or through no fault of the seller.

Article 8 Liability

- 8.1 The total liability of the seller per harmful event shall be limited to the amount that is, as the occasion arises, paid pursuant to the liability insurance of the seller. If the insurance would not proceed with payment in a certain case or if the claim is not covered by the insurance then the liability of the seller shall be limited to the amount of the fees paid to the seller by the buyer in the period of six (6) months prior to the harmful event and, in any case, to an amount €50,000.00 (*in words: fifty thousand euros*).
- 8.2 A mere event and/or conduct or a coherent series of events and/or conduct as well as each and every event that is related to the event causing damages shall be qualified as a harmful event, in the sense that the seller can only be addressed once for a harmful event.
- 8.3 The liability of the seller for indirect damages, consequential damages, lost profit, damages deriving from claims of third parties in respect of the buyer, damages due to an overstepping of a period or property damage consisting of destruction or loss of or damage to goods that are used by the buyer in the normal performance of a business or profession is excluded.
- 8.4 However, the seller shall be liable in full for the damages in the event of intent or gross negligence on the part of the seller or of its managerial subordinates.
- 8.5 Liability of the seller only arises if the buyer gives the seller written notice of default within one (1) month after the buyer has become or could reasonably have become familiar with the shortcoming, in the course of which the seller is granted a reasonable period of at least thirty (30) days in order to remedy the shortcoming and the seller still imputably fails to comply with its obligations after the said period. The notice of default must contain a description of the shortcoming that is as detailed as possible as well as an explanation of the measures that the buyer took in order to prevent and/or limit the damages. The right to compensation does, in any case, expire after one (1) year has lapsed since the harmful event.
- 8.6 The provisions set forth in this article 8 are also applicable for the benefit of any and all natural persons who and any and all legal entities that the seller relies on for the implementation of a (sale and purchase) agreement.

Article 9 Prices

- 9.1 The prices quoted by the seller are applicable to delivery Ex Works ('EXW') and are exclusive of transport costs, packaging, and turnover tax (VAT), customs duties, import duties, and other officially imposed surcharges, unless stipulated otherwise in writing.

Article 10 Payment

- 10.1 Unless stipulated otherwise in writing, payment must take place within thirty (30) days after the date of the invoice.
- 10.2 If payment has not been received by the seller within the stipulated period then the buyer shall be in default by operation of law and the buyer shall be liable to pay interest at 1% per month to the seller, unless the statutory (commercial) interest is higher in which instance the statutory (commercial) interest is applicable, calculated on the amount due effective from the due date, without any demand or notice of default being required, without prejudice to the right of the seller to immediately claim the amount due with interests and costs of extrajudicial or judicial collection. The costs of extrajudicial collection are set by the parties at 15% of the amount due, which costs shall, in case of judicial collection, be payable in addition to the costs of the proceeding. If the seller can demonstrate to have incurred higher costs then the buyer shall be required to compensate the seller for the actually incurred costs.

Article 11 Reservation of title

- 11.1 The goods delivered by the seller remain the property of the same until the buyer has complied with all of the following obligations that derive from sale and purchase agreements concluded with the seller:
- the consideration(s) with regard to the delivered or yet to be delivered goods;
 - the consideration(s) with regard to services supplied or to be supplied by the seller pursuant to the sale and purchase agreement(s);
 - any claims on account of non-compliance by the buyer with (a) (sale and purchase) agreement(s).
- 11.2 The buyer is allowed to resell the goods delivered by the seller in the context of its normal business operations.

- 11.3 If the buyer does not comply with its obligations or if there is well-founded fear that the buyer shall not do so then the seller shall be entitled to take back or have taken back the goods delivered subject to reservation of title at the buyer or third parties who hold goods for the buyer. The buyer is required to lend its cooperation in this subject to a penalty of 10% of the amount payable by the buyer to the seller per day.
- 11.4 If the goods are delivered in Germany then in addition to the “normal” reservation of title, the “extensive” and the “extended” reservation of title pursuant to German law are also applicable to these goods. This implies that any and all deliveries and future deliveries are subject to reservation of title (extensive reservation of title). Moreover, the reservation of title of the seller remains vested on goods processed, treated, mixed, acceded, and resold by the buyer (extended reservation of title). This article 11.4 of these general terms and conditions of sale is, in derogation from any other provisions set forth in these general terms and conditions of sale, governed by German law, with the exclusion of the Vienna Sales Convention.

Article 12 Compensation, settlement, and security

- 12.1 The seller is always authorised to suspend a performance on the part of the same if a claim of the seller in respect of the buyer is not paid in a timely fashion or if, following a corresponding demand, no alternative and/or additional security has been provided for these kinds of claims.
- 12.2 If the seller shall or may be liable to pay an amount to the buyer then the buyer cannot rely on compensation with an amount payable to the seller.
- 12.3 The seller shall be entitled to require an advance and/or securities, including but not limited to the provision of a demand guarantee, before the seller shall be required to (further) implement a (sale and purchase) agreement.

Article 13 Inability to pay of the buyer

- 13.1 The seller is entitled to rescind or terminate a (sale and purchase) agreement, either in whole or in part, without a notice of default and without judicial intervention being required, with immediate effect if:
- the buyer fails to comply with its (payment) obligations and the buyer did not remedy its failure(s) in full within seven (7) days after having been summoned in writing to do so;
 - the buyer is granted, whether or not provisional, suspension of payment;
 - a winding-up petition or bankruptcy application is filed in respect of the buyer or in the event its business is being liquidated or discontinued, or, in case of a natural person, if the buyer files an application for applicability of the Dutch Debt Restructuring (Natural Persons) Act;
 - due to the issue, transfer or other devolution of shares or the devolution of voting rights on shares, the control over the operations of the business of the buyer is acquired by one or more others within the meaning of the SER Resolution concerning the Merger Code 2015 (irrespective of the applicability of the said rules to the relevant acquisition) or if a change occurs in the composition of its board of directors.
- 13.2 In the instances as intended in article 13.1 of these general terms and conditions of sale the seller shall not be required to pay any compensation (for damages) and the seller remains authorised to claim payment from the buyer of the stipulated purchase price minus the instalments that may already have been paid and increased by compensation for damages incurred or yet to be incurred by the seller. If at the moment of termination of a (sale and purchase) agreement as intended in article 13.1 of these general terms and conditions of sale the buyer has already received performances for the implementation of the relevant (sale and purchase) agreement then the said performances and the thereto-pertaining payment obligation shall not be undone.

Article 14 Closing provisions

- 14.1 The seller is authorised to make changes in these general terms and conditions of sale. These changes take effect on the announced time of entry into force. The seller shall send the changed terms and conditions to the buyer prior to the date of entry into force. If no date of entry into force is announced then changes take effect in respect of the buyer as soon as the change has been communicated to the same.
- 14.2 The right to suspend and/or settle of the buyer is excluded.
- 14.3 The buyer irrevocably and unconditionally indemnifies the seller against claims of third parties in connection with the goods delivered by or on behalf of the seller.