



CONDITIONS OF SALE

1. DEFINITIONS
 - 1.1. "and/or" shall mean either of the alternatives or both of the alternatives as the context requires;
 - 1.2. "Buyer" means the person, firm or company so named on the attached sales contract and/or sales confirmation issued by the Seller, incorporating these conditions for the sale of goods;
 - 1.3. "Contract" means the sales contract and/or sales confirmation between the Buyer and the Seller incorporating these conditions for the sale of goods;
 - 1.4. "Conditions" means these conditions of sale;
 - 1.5. "Goods" means any goods ordered from and agreed to be supplied by the Seller to the Buyer, pursuant to the Contract;
 - 1.6. "Liability" means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs (including legal costs) and any other losses and/or liabilities;
 - 1.7. "Price" means the amount to be paid by the Buyer to the Seller for the Goods, pursuant to the Contract. In the event that the Goods are supplied, at the Seller's option, in instalments the Price shall mean the value paid for the specific instalment, and not the entire contractual quantity; and
 - 1.8. "Seller" means Community Foods Limited, Community House, 29-31 Eastways Industrial Estate, Witham, Essex, CM8 3YQ.
 2. OTHER TERMS OR REPRESENTATIONS
 - 2.1. These Conditions set out the terms and conditions upon which the Buyer and Seller agree to contract, to the exclusion of all other terms that the Buyer or Seller may purport to apply in connection with the Contract (unless otherwise agreed in writing by the Buyer and Seller), even if no express reference is made to them.
 - 2.2. These Conditions supersede all previous terms and conditions and shall replace any terms and conditions previously notified to the Buyer by the Seller, and will continue to apply to any and all future Contracts.
 - 2.3. The Seller shall not be bound by any variation, waiver or addition to these terms unless the same is agreed in writing by an authorised representative of the Seller.
 - 2.4. Terms and conditions stipulated by the Buyer which contradict and/or diverge from these Conditions shall have no contractual effect and will not be valid even if the Seller effects delivery or rendered services without reservation.
 - 2.5. The Seller provides personal information exclusively for use regarding the communication of sale, delivery, invoicing and related claims arising. This data may not be used for any other purpose.
 - 2.6. The Buyer shall provide such contact information as is lawful and compliant with data privacy legislation. This shall be held and used by the Seller for use exclusively regarding the communication of the sale, delivery, invoicing and related claims arising.
 3. CONTRACT FORMATION
 - 3.1. Quotations issued by the Seller shall be open for acceptance for a period of 1 day unless stated otherwise. Quotations may be withdrawn by the Seller at any time during this period by oral or written notice.
 - 3.2. The Seller has the right to refuse any orders placed for Goods at any time before the Seller accepts the order in writing.
 - 3.3. The Buyer shall be responsible for the accuracy of any order placed and for providing the Seller with all such information as is necessary in order for the Seller to perform the Contract.
 - 3.4. The Contract between the Seller and the Buyer shall only come into effect upon the Seller's written acceptance of the Buyer's order.
 - 3.5. The Buyer shall not be entitled to cancel any order unless agreed in writing by the Seller.
 4. DESCRIPTION AND QUALITY
 - 4.1. Any statement as to the description and/or quality of the Goods to be supplied by the Seller to the Buyer shall be deemed to be approximate, unless expressly stated and agreed in writing by the Seller.
 - 4.2. Unless otherwise stated the quality of the Goods at the time of despatch to the Buyer shall be the fair and average quality of that particular year's crop.
 - 4.3. The Seller does not warrant that the Goods will be free from physical or microbiological contamination.
 - 4.4. The Seller neither represents nor warrants that the Goods are suitable for any particular purpose, nor is it a term of these Conditions that they be so. It is the Buyer's responsibility to satisfying themselves that the Goods are suitable for the purpose for which they are purchased, or to put them into such a condition as will render them suitable, for any particular purpose.
 - 4.5. The Seller does not warrant the length of time for which Goods will remain fit for consumption, unless a Best Before Date is stated in the Contract, in which case such warranty shall apply.
 - 4.6. It is the responsibility of the Buyer to ensure the Goods are stored appropriately and/or fumigated as necessary, in accordance with good industry practice.
 - 4.7. Should the description and/or quality and/or condition of the Goods not be in accordance with the Contract, the Buyer will accept the Goods and will notify the Seller of any alleged breach within 7 (seven) working days of delivery of the Goods. The notice must be in writing and must identify the breach and the grounds for a claim in reasonable detail.
 - 4.8. Should notice of a breach of Contract regarding the description, quality and/or condition of the Goods not be provided by the Buyer to the Seller within the time prescribed in Clause 4.7, and/or if the Buyer fails to provide any information and/or documentation required by the Seller to substantiate or evidence any such claim, the Goods will be deemed to be in accordance with the Contract.
 - 4.9. If the Seller recalls any Goods, the Buyer shall immediately cease to market and/or sell any Goods recalled by the Seller and shall cooperate fully with the Seller including but not limited to the provision of information to customers.
 - 4.10. The Seller reserves the right to make changes to the specification of the Goods as required from time to time by law, applicable safety requirements and/or manufacturing requirements provided that they do not have a material adverse effect on the acceptability of the Goods.
 - 4.11. The Goods are sold on the basis of packed weight.
5. ESTIMATION
 - 5.1. A minimum order value of £600 excluding VAT shall apply on all collated orders.
 - 5.2. The quantity of Goods stated in the quotation are estimated.
 - 5.3. The words 'about' or 'more or less' or similar words when applied to the Contract quantity mean that the Seller may satisfy any order for Goods by delivery of a weight or number (as appropriate) of Goods which is within 10% of the amount ordered and the Price shall be adjusted pro rata as a result.
 6. PRICE
 - 6.1. The price of this Contract is based on current costings. The Price of the Goods shall be as quoted to the Buyer by the Seller or as otherwise shown in the Seller's price list current at the date of the acceptance of the order.
 - 6.2. Except when stated otherwise, the Price shall exclude delivery.
 - 6.3. The Price is exclusive of any applicable VAT for which the Buyer shall additionally be liable.
 - 6.4. The Seller may increase the Price of the Goods where the increase is to take account of increases in costs, expenses and/or materials suffered by the Seller including but not limited to any increase in freight costs, duties, levies, minimum import price, value added tax, insurance costs, transport costs and/or landing costs .
 7. PAYMENT AND CREDIT TERMS
 - 7.1. Unless otherwise agreed by an authorised representative of the Seller in writing, all invoices shall be paid within 48 hours of the due date stated on the invoice. Time for payment shall be of the essence.
 - 7.2. If the Buyer fails to make any payment in full on the due date the Seller may charge the Buyer interest (both before and after judgment) on the amount unpaid at the rate of 1% per annum above the Seller's bank's base lending rate from time to time for every day in respect of which payment is delayed
 - 7.3. Any monies received by the Seller from the Buyer may be applied by the Seller at the Seller's option against any interest charged prior to allocation against any principal sums due from the Buyer against which it may be allocated in any order.
 - 7.4. The Seller shall be entitled to invoice each delivery of Goods separately on the collection/despatch date agreed with the Buyer.
 - 7.5. The Buyer shall pay all sums due to the Seller under this Contract without any set-off, deduction, counterclaim or any other withholding of monies.
 - 7.6. If payment in full is not made to the Seller when due then the Seller may withhold or suspend future or current deliveries of the Goods under this contract and any other agreement with the Buyer.
 - 7.7. The seller reserves the right to charge the buyer for cheques returned unpaid to the seller at the rate of £25.00 per returned cheque.
 - 7.8. The Seller may alter or revoke any credit limit agreed with the Buyer at any time with or without notice to the Buyer. The Seller may require a payment on account or payment terms revised with the Buyer, so that the Buyer's credit limit is maintained.



- 7.9. The Seller reserves the right, without Liability to the Buyer, to refuse to accept orders and/or to suspend or withhold delivery of Goods if such Goods would result in the Buyer exceeding its credit limit or if the credit limit is already exceeded.
- 7.10. The Seller will inform the buyer of any prices that have changed since the publication of the pricelist. The buyer may choose to cancel the order or to place the order at the new Price.
- 7.11. It is the responsibility of the Buyer to notify the Seller within 7 days of receiving an invoice of any Price charged that is disputed. Absent notification invoices must be paid in full in accordance with Clause 7.1 above.
8. RIGHTS TO TERMINATE OR DELAY
- 8.1. The Seller shall have the right at any time to demand from the Buyer payment of all overdue accounts, whether for Goods supplied under this Contract or any other contract and in the event of the Buyer failing to comply with such demand within 7 days, the Seller may delay delivery until such overdue accounts are paid.
- 8.2. The Seller may terminate the Contract pursuant to clause 8.1, if the Buyer:
- 8.2.1. fails to make any payment to the Seller when due;
- 8.2.2. breaches the terms of this Contract and, if the breach is capable of remedy, has not remedied the breach within 7 days of receiving notice requiring the breach to be remedied;
- 8.2.3. persistently breaches any one or more terms of this Contract;
- 8.2.4. is declared or becomes insolvent or bankrupt, has a moratorium declared in respect of any of its indebtedness, enters into administration, receivership, administrative receivership or liquidation or threatens to do any of these things, takes or suffers any similar action in any jurisdiction or any step is taken (including, without limitation, the making of an application or the giving of any notice) by it or by any other person in respect of any of these circumstances;
- 8.2.5. appears to the Seller due to the Buyer's credit rating to be financially inadequate to meet the Buyer's obligations under the Contract; and/or
- 8.2.6. appears reasonably to the Seller to be about to suffer any of the above events; then the Seller shall have the right, without prejudice to any other remedies, to terminate the contract forthwith (or upon such notice as the Seller thinks fit).
9. FORCE MAJEURE
- 9.1. The Seller shall have no Liability to the Buyer for any delay in performance of this Contract to the extent that such delay is due to any events outside the Seller's reasonable control including but not limited to acts of God, war, flood, fire, labour disputes, strikes, lock-outs, riots, civil commotion, civil disturbances, malicious damage, explosion, governmental actions, accident, interruption of traffic or production, lack of shipping space, regulations and/ or restrictions by any government and/or regulatory authority, alteration of regulations and/or restrictions by any government and/or regulatory authority, lack of import or export licences, or any other cause interfering with the manufacture or delivery of Goods, and any other similar events. If the Seller is affected by any such event then time for performance shall be extended for a period equal to the period that such event or events delayed such performance.
10. DELIVERY
- 10.1. Shipment and delivery dates are given in good faith, but are only estimates made by the Seller and are not guaranteed. Time is not of the essence in relation to such dates.
- 10.2. The Seller may, at its sole discretion, make delivery by instalments.
- 10.3. Where delivery is made by instalments each delivery shall be a separate Contract and failure by the Seller to deliver, or any claim made by the Buyer in respect of any instalment shall not entitle the Buyer to repudiate and/or terminate this Contract. The Seller shall be entitled to invoice the Buyer for each instalment separately.
- 10.4. The Buyer shall have no right to reject Goods and shall have no right to rescind for late delivery unless the due date for delivery has passed and the Buyer have served on the Supplier a written notice requiring the Contract to be performed and giving the Seller not less than 14 days in which to do so and the notice has not been complied with.
- 10.5. The Seller shall not be required to fulfil orders for Goods in the sequence in which they are placed.
- 10.6. The Buyer shall be responsible at its own cost for all arrangements to unload the Goods when delivered to the Buyer. Delivery will be made between 9.00am and 5.00pm on working days unless otherwise agreed between the parties or the parties' authorised representatives.
- 10.7. The Buyer shall ensure during normal working hours that the Seller has free rights of access to the address for delivery for the purpose of delivering the Goods.
- 10.8. If the Buyer refuses to take delivery of any Goods then the Seller shall be entitled to withhold delivery of any other Goods and to treat this Contract as repudiated by the Buyer.
- 10.9. If the parties agree that the Goods are to be collected from the Seller's premises then the Buyer shall collect the Goods within 3 working days of being notified that the Goods are ready for collection. If the Goods are not collected by the Buyer within the specified period the Seller may dispatch the Goods to the Buyer at the Buyer's expense and risk and/or store the Goods at the Buyer's expense and risk until dispatch and/or collection.
- 10.10. Where a delivery leadtime has been agreed it is based upon orders being placed before 12pm on day 1.
- 10.11. Where the Goods have not been collected by the buyer or on behalf of the buyer then a surcharge of £10 per pallet per day shall be incurred by the Buyer.
11. LOSS OR DAMAGE
- 11.1. It shall be the responsibility of the Buyer to notify the carrier, warehouse and Seller of any loss or damage to Goods in writing within 2 days from the date of delivery, or if Goods are sold ex store then within 2 days from the date of the delivery order.
- 11.2. Any damages visible upon receipt of the Goods must be recorded on the Proof of Delivery and signed for accordingly. Photographic evidence should be gained at this point and preferably whilst the Goods are still on the delivery vehicle. Any damages that are found within the 48hrs following delivery such as "nested" split bags etc. must be notified to the Seller ASAP and photographic evidence supplied.
- 11.3. All claims for damages must be accompanied by a photograph of the damaged Goods. The minimum claim for damaged Goods is £10
- 11.4. Signed for Goods stated to be "unchecked" is not acceptable and these terms and conditions shall apply.
- 11.5. The Seller shall have no Liability whether resulting directly or indirectly for any loss and/or damage to the Goods if the Buyer fails to comply with Clause 11.1.
- 11.6. The Buyer should ensure that a valid Returns Merchandise Authorisation (RMA) number is quoted for any return and the necessary paperwork quoting the RMA number should be enclosed with the return.
- 11.7. The Buyer shall ensure that only items listed on the RMA document are returned. Items not listed will not be accepted and credited.
- 11.8. UK based buyers should ensure that any Goods authorized for returns on the RMA are returned to the Seller within 14 days of the RMA being agreed by the Seller. For international buyers, this should be done within 30 days of the RMA being agreed by the Seller.
- 11.9. The Seller will only be able to raise a credit note once the physical Goods have been received back in the Seller's warehouse and the returns verified.
- 11.10. Failure to adhere to the RMA process outlined above including 11.1 will result in the claim being rejected.
- 11.11. Any Goods removed from the original packaging or where the packaging is damaged in any way will not be accepted or refunded unless the Goods are being returned due to a quality and/or condition issue.
12. LIABILITY
- 12.1. Subject to clause 12.11 below, the Seller's total Liability to the Buyer, pursuant to the Contract, shall not exceed the Price of the Goods.
- 12.2. The Seller's total Liability to the Buyer in relation to any claim or series of linked claims shall not exceed the total Price payable for the contractual quantity or specific instalment which is the subject of such claim, paid by the Buyer to the Seller under this Contract.
- 12.3. The Seller shall have no Liability for defective Goods where the defect has been caused by the Buyer. To the extent that the Buyer has contributed to or made an existing defect worse, the Seller's Liability shall be limited in proportion to its contribution to such defect.
- 12.4. Should the Buyer fail to pay the Price of the Goods within 3 (three) working days of the date that such payment became due, the Buyer will be deemed to have waived any right to bring a claim for a breach of such Contract.
- 12.5. Should the Buyer fail to provide notice of any claim in accordance with these Conditions, the Seller shall be free of all Liability.
- 12.6. The Seller shall have no Liability for any defect in the Goods caused or contributed to as a result of the Goods being used for display or demonstration purposes or being handled by the Buyer's customers.
- 12.7. The Seller shall have no Liability for damage, loss, liability, claims, costs or expenses caused or contributed to by the Buyer's continued sale and/or use of defective goods after a defect has become apparent or suspected or should reasonably have become apparent to the Buyer.
- 12.8. The Seller shall have no Liability to the Buyer for any of the following:
- 12.8.1. expenses, loss of profits and/or damage to goodwill;



- 12.8.2. pure economic and/or other similar losses;
- 12.8.3. special damages;
- 12.8.4. aggravated, punitive and/or exemplary damages;
- 12.8.5. loss of communications;
- 12.8.6. consequential losses and/or indirect losses; and/or
- 12.8.7. business interruption, loss of business, loss of contracts, loss of opportunity and/or production.
- 12.9. The Buyer is under a duty to mitigate any loss, damage, costs or expenses that it may suffer (including by maintaining an adequate stock of Goods) including but not limited to any Liability arising from any recall of Goods by the Seller.
- 12.10. Each of the limitations and/or exclusions in this Contract shall be deemed to be repeated and apply as a separate provision, for each of the following Liabilities, except to the extent that, pursuant to Clause 12.2, the Seller's total Liability for any claim or series of linked claims shall not exceed the Price:
 - 12.10.1. Liability in contract or Liability in tort (including negligence);
 - 12.10.2. Liability for breach of statutory duty; or Liability for breach of common law and/or under any other legal basis;
- 12.11. Nothing in this Contract shall exclude or limit the Seller's Liability for death or personal injury due to its negligence or any Liability which is due to its fraud or any other liability which it is not permitted to exclude or limit as a matter of law.
- 12.12. All warranties, terms, conditions and duties implied by law relating to fitness, quality or adequacy are excluded to the fullest extent permitted by law.
- 12.13. The Buyer shall indemnify the Seller in full for all Liability, loss and/or damage incurred as a result of, or in relation to, any claim brought by a third party for the Goods, against the Seller.

13. CONTAINERISATION

- 13.1. The Buyer shall indemnify and keep indemnified the Seller from all liabilities and including all administration, professional and legal costs on a full indemnity basis which may be incurred by the Seller (without set-off, counterclaim and/or reduction) which may arise out of or in connection with any claim for demurrage and/or detention howsoever caused including negligence whether the containers are located at the Buyer's premises or the premises of the Buyer's agents and/or contractors.
- 13.2. The Buyer shall ensure that the seal affixed to the container is affixed and intact at the time of delivery and when a seal is broken or missing at the time of delivery the Buyer shall ensure that this is noted on the carrier's receipt. In the absence of such notification the Seller shall have no liability to the Buyer for any claim in relation to Goods contained in containers with broken and/or missing seals.
- 13.3. The Buyer shall ensure that any deficiencies, shortages and/or damage is noted clearly on the carrier's receipt at the time the container is accepted and unloaded.
- 13.4. Any claim must be made in writing to the carrier and the Seller on the day of delivery.

14. PROPERTY AND RISK

- 14.1. Property in the Goods shall remain with the Seller until the Buyer has made full payment for them and has paid all sums due in relation to any other agreement between the Buyer and the Seller.
- 14.2. Until property passes to the Buyer, the Buyer shall keep the Goods separate from any goods belonging to the Buyer or any third party and readily identifiable as the property of the Seller.
- 14.3. Property in the Goods shall not pass to the Buyer until the Buyer has discharged all outstanding liabilities to the Seller.
- 14.4. Until title in the Goods has passed to the Buyer the Buyer shall keep the Goods insured for the price at which the Goods were sold to the Buyer against all normal risks and shall hold any proceeds of such policy of insurance in relation to the Goods on trust for the Seller upon receipt of the same.
- 14.5. Until ownership of the Goods passes to the Buyer the Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence or have been resold. If the Buyer fails to do so the Seller's employees and/or agents may enter upon any premises owned and/or occupied by the Buyer where the Goods are situated and repossess the Goods.
- 14.6. Despite the Goods remaining the property of the Seller the Buyer may sell the Goods in the ordinary course of its business at full market value for the account of the Seller. The Buyer shall receive the proceeds of sale thereof on trust for the Seller, shall keep such proceeds separate from other monies and shall not pay any such sums into any over drawn bank account.
- 14.7. Risk in the Goods shall pass to the Buyer upon delivery. Delivery shall be deemed to occur:
 - 14.7.1. upon the Seller issuing a delivery order in favour of the Buyer; or
 - 14.7.2. should the Seller deliver the Goods, or arrange for the Goods to be delivered, upon the Goods arriving at the place deemed by the Seller to be the place of delivery; or

- 14.7.3. when the Goods leave the Seller's premises; or
- 14.7.4. after the expiration of 3 working days after the Buyer has been notified of it if the Goods are available for collection from the Seller.

15. AGENTS

- 15.1. Where the Buyer is acting on behalf of a principal, whether disclosed or not, the Buyer shall be liable for the performance of the Contract by the principal.

16. GENERAL

- 16.1. No waiver by the Seller of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision.
- 16.2. If any provision of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.
- 16.3. The Buyer shall not assign its interest in the Contract (or any part) without the Seller's prior written consent.
- 16.4. Unless the contract contains any statement expressly to the contrary, a person who is not a party to this Contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.
- 16.5. Any obligation to "ensure" shall be deemed to create a primary obligation and liability and not merely a guarantee or a secondary obligation and liability.
- 16.6. Should performance of the Contract commence prior to the Buyer having signed or otherwise signified its agreement to these Conditions, such performance will be deemed the Buyer's acceptance of the Conditions and the date that performance commenced will be deemed the date of acceptance.

17. PROPER LAW

- 17.1. This Contract shall be governed exclusively by the laws of England and Wales.

18. DISPUTES

- 18.1. The parties agree to submit all disputes arising out of and/connected with the Contract whether of a contractual or non-contractual nature to the exclusive jurisdiction of the courts of England and Wales.

Acceptance of Terms & Conditions of Trade

I have read & fully understand Community Foods Ltd Terms & Conditions of Trade and agree to abide by them.

Name of the person signing the terms & conditions: _____

Position Held: _____

Company Name: _____

Signature (authorised signature only): _____

Date: _____