

General terms of sale and delivery for Be-St Holland Products B.V., trading under the name Be-St Holland Products B.V., by statute established in Den Haag and registered in the trade register of the Chamber of Commerce under number 20160711.

## **Be-St Holland Products B.V.**

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### **Article 1. Relevance**

1. In these general conditions Be-St Holland Products B.V. is called “the supplier” and the (legal) persons at whom an offer is addressed and/or with whom an agreement is reached are called “buyer”.

2. These general conditions are applicable to all offers by and agreements with the supplier. Departures from these general conditions will only be valid if accepted by the supplier in writing. General conditions by the buyer are not applicable towards offers by or agreements with the supplier. The supplier rejects the relevance of the general conditions of purchase of her buyer.

A buyer who has purchased under the validity of the present conditions once is considered to automatically agree to the relevance of the supplier's conditions regarding possible subsequently placed orders, regardless of whether such an order is confirmed in writing.

3. The invalidity or nullification of one or more stipulations of these general conditions does not influence the relevance of the remaining stipulations of these general conditions. The supplier and the buyer shall confer to replace invalid or nullified stipulations in these general conditions by stipulations that adhere to the purpose and the intent of the invalid or nullified stipulations.

4. In these general conditions the electrical variant including - but not exclusively - email messages are also considered “in writing”. In the event a dispute arises about receiving or not receiving an electronic message the administration and/or the log files of the supplier are conclusive.

### **Article 2. Offer and agreement**

1. An offer from the supplier is made without obligations and can be revoked, cancelled or altered by the supplier until the third day after supplier's examination of the receipt of her offer. Errors or omissions occurring in an offer or documentation and advice as part of an offer do not bind the supplier.

2. An offer by the supplier is valid during 30 days from the date of dispatch unless a different period of validity is listed with the offer or unless the period of validity has been extended in writing by the supplier prior to the end of the period of validity.

3. In case an offer requested from the supplier by the buyer does not result in an agreement between the supplier and the buyer, the obligation to repay the expenses made by the supplier in connection with making the offer lies with the buyer.

4. In case the supplier has made an offer an agreement between the supplier and the buyer is initially entered by the buyer unconditionally accepting the supplier's offer and/or by the supplier executing an assignment by the buyer. In case the receipt and/or assignment from the buyer is different from the supplier's offer the offer is of overriding importance.

5. An agreement is initially entered by the supplier receiving the buyer's assignment in writing in case the supplier has not extended an offer. In case the written receipt is different from the assignment the receipt is of overriding importance.

6. Alterations and/or additions to the agreement are only valid after the alterations and/or additions are agreed by the supplier and the buyer in writing.

7. The supplier is authorised to let the agreement be executed by third parties.

8. The buyer is only authorised to cancel the agreement in case this has been explicitly included in the agreement. In case the buyer – lawfully - cancels the agreement the responsibility to repay expenses made by the supplier in connection with extending the offer, executing the agreement and damages resulting from the cancellation rest with the buyer.

9. The supplier is authorised to partially or completely terminate the agreement unilaterally and/or to suspend the execution of the obligations resulting from the agreement partially or completely with immediate effect in case:

A. The buyer has imputably failed to comply with one or more stipulations ensuing from this agreement and is in default with regard to these;

B. A request to granting – temporary - suspension of payment has been submitted by the buyer;

C. The buyer has submitted a bankruptcy petition;

D. The supplier places seizure under writ of attachment on the buyer;

E. A decision has been reached regarding the dissolution and/or liquidation of the buyer;

F. The buyer has died or has been placed under legal restraint;

G. One or more shares in the buyer's company are transferred to people different from the shareholder(s) at the time of the agreement;

H. The company operated by the buyer is transferred partially or completely to one or several other parties.

10. The supplier shall never owe the buyer any damages as a result of terminating the agreement and suspending the obligations ensuing from the agreement for the reasons mentioned.

11. The buyer is not entitled to dissolve the agreement in case the buyer is in default.

12. In case the agreement is dissolved the performances already enjoyed as part of the execution of the agreement and the payment obligation in connection with this do not fall under a cancellation obligation unless the supplier is in default with regard to these performances. Amounts invoiced by the supplier - in connection with the executed performances - prior to or at the time of the dissolution of the agreement are immediately demandable after the dissolution.

### **Article 3. Delivery and purchase**

1. The delivery of goods by the supplier will be done from a location to be determined by the supplier, this could possibly be the location of a logistic service provider. The supplier is authorised to deliver the numbers to be delivered in parts. Extra postage/freight costs ensuing from this for the buyer are at the buyer's expense.

1.a. The supplier is free to select a functional packaging and sending.

2. The costs for transportation, shipment, import, export, storage and insurance of the goods to be delivered to the buyer by the supplier will be invoiced to the buyer even if on the transportation, shipment, import, export, storage and/or insurance proof it is listed differently.

3. Barring further agreements with different stipulations the delivery of goods by the supplier will be carried out following payment by the buyer of the amounts owed for the - delivery of - the goods.

4. Delivery periods communicated by the supplier are established on the supplier's best knowledge and based on information available at the time of drafting the agreement. They do not form an essential part of the agreement and shall be respected by the supplier as much as possible. The supplier is not in default by merely exceeding a delivery period communicated by her. The buyer cannot be granted authorisation to dissolve the agreement partially or completely merely by the delivery period being exceeded. In case the supplier expects to exceed a delivery period the supplier will consult the buyer as soon as possible. The buyer is not bound to the delivery periods, which, after reaching the agreement, cannot be observed due to circumstances outside the supplier's control.

5. The buyer is obligated to purchase goods to be delivered on demand at the agreed delivery period. In case no delivery periods are agreed with regard to the goods to be delivered on demand, the buyer is obligated to purchase all goods no later than 30 days after reaching the agreement.

5.a. The supplier maintains the right to invoice the prices and charges current at the time of delivery without further notification, irrespective of prior confirmation, for goods that the supplier has to deliver at set periods or on demand and for goods that the supplier does not have in stock or only in part upon receiving the order which the supplier books for delivery as soon as possible,

6. Goods delivered by the supplier are the responsibility of the buyer without prejudice to the stipulations in articles 3, paragraph 2 and article 5 below, starting from the moment at which the buyer or assistant to the buyer has the actual power of disposal over these goods.

7. Without prejudice to the content of article 7 the supplier is not obligated to accept goods returned by the buyer to the supplier without prior written permission. Accepting goods returned by the buyer does not imply acknowledgement of the reason for returning by the supplier. Goods returned to the supplier by the buyer remain the responsibility of the buyer and the buyer continues to owe the agreed amounts until the supplier has credited the buyer for these goods. In case the supplier does not accept the goods returned the buyer is obligated to repay the supplier's expenses with regard to the returned goods.

8. Goods accepted by the supplier from the buyer, which the buyer has used, adapted, processed or delivered to third parties partially or completely are expected to meet the agreement.

9. The buyer cannot claim any rights based on defects with regard to the goods delivered by the supplier with regard to the images, drawings and/or samples delivered by the supplier together with an offer that ensues from the exemplary nature of the images, drawings and/or samples delivered with the offer.

10. The postage/freight costs applicable to an order are listed on the order confirmation. In case the supplier does not agree to the amount listed for postage/freight costs the buyer is at liberty to select a transporter of their own, however the buyer must in this case be responsible for the postage/freight costs.

## **Article 4 – Price and payment**

1. All prices published by the supplier are excluding sales tax and other government-imposed charges.

The supplier is not bound by prices published in a non-exclusive offer send to the buyer. Third parties cannot claim rights based on an offer addressed to a buyer.

2. The supplier is authorised to adjust the agreed prices and rates – with immediate effect – based on the average alteration of the cost and/or purchase price of goods to be delivered by the supplier and/or activities to perform. An adjustment of agreed prices and rates does not otherwise affect the agreement.

3. The expenses of the execution of alterations to the agreement requested by the buyer and accepted by the supplier following the offer by the supplier are at the expense of the buyer. In case difficulties arise during the execution of the agreement that were unforeseen at the time of reaching the agreement the ensuing additional charges are at the buyer's expense.

4. Invoices – including pro forma invoices – from the supplier must be paid in accordance with the terms of payment listed on the offer, receipt or the invoice of the supplier. In case no term of payment is listed the invoice must be paid within 14 days following the invoice date (due date).

5. In case the buyer has not paid the amounts due within the valid term the buyer is in default starting the due date and will owe a late fee of 12% over the due amount per year starting the due date. In case the buyer fails to pay the due amounts after a first reminder the buyer owes the supplier the amount of the supplier's costs for legal aid in and outside the courts – including the non-liquidated legal costs.

6. The supplier is authorised to first assign payments from the buyer to settling payments that do not ensue from the agreement – despite different statements from the buyer – and for settling payments ensuing from faults by the buyer in the execution of the commitments ensuing from this agreement.

7. The buyer is not authorised to suspend his obligation to pay the supplier and/or balance it with (payment) obligations from the supplier towards the buyer. The buyer is not authorised to annul the agreement with the supplier in case the buyer is in default.

8. In case the buyer does not meet his payment obligations towards the supplier in full or within the valid payment term the supplier is authorised to completely postpone and/or not observe her obligations towards the buyer.



9. The buyer is obligated to ensure and continue to ensure the payment of obligations towards the supplier ensuing from this agreement following a first request of the supplier. In case the buyer does not sufficiently ensure and/or continues to ensure the payments of the obligations towards the supplier the supplier is authorised to completely postpone and/or not observe her obligations towards the buyer.

## **Article 5 – Reservation of property and rights**

1. All goods supplied to the buyer by the supplier remain the property of the supplier until all amounts due for goods supplied and/or to be supplied and/or activities executed and/or to be executed, including the amounts owed by virtue of article 4, paragraph 5, and in connection with the – incorrect – execution of the agreement are paid to the supplier in full. The buyer does not have the right to dispose of the goods that fall under the retention of title described in the previous sentence and shall inform interested parties – including the intended assignees – of this incompetency.

2. Rights other than rights of ownership are always granted or transferred to the buyer under the suspended condition that the amounts due to the supplier – including the amounts due by virtue of article 4, paragraph 5 – and the amounts due in connection with the – incorrect – execution of the agreement are paid to the supplier in full.

## **Article 6 – Intellectual property**

1. All intellectual properties with regard to all products by virtue of and/or as part of the agreement brought about by the supplier and/or products provided by the supplier (being: items – including instructions, documentation, inventions, drawings, models and other materials) belong exclusively to the supplier or her suppliers. The buyer does not have permission to make products manufactured and/or supplied by the supplier completely or partly public and/or to duplicate and/or – otherwise – act as the manufacturer and/or rightful proprietor. Rights granted to the buyer by the supplier with regard to the products include only the non-exclusive rights granted explicitly in the agreement, which are terminated immediately by the use of products in breach of the rights of the supplier and/or her supplier(s), the stipulations in the agreement and/or these general conditions and/or the applicable legal stipulations. Rights granted to the buyer are not subject to conveyance without prejudice to an authorisation, subject to article 5, from the buyer ensuing from the agreement to sell and supply the acquired item to users as part of the normal company activities.

2. The buyer is not authorised to remove or alter indications of intellectual property and indications regarding the confidential character of information from products manufactured by and/or provided by the supplier.

3. The buyer is not authorised to change – or have changed - products manufactured and/or delivered by the supplier without the consent of the supplier.

4. In case and to the extent that the supplier supplies or otherwise provides cheese moulds – and cheese production process equipment and other materials by third parties to the buyer, the conditions from these third parties are applicable to these materials in stead of the different stipulations in these general conditions. The buyer accepts the intended conditions of third parties, which the buyer can read by the supplier granting inspection at the buyer's request.

5. The buyer shall indemnify the supplier of claims by third parties based on the proposition that the supplier is violating the intellectual property of third parties by using the materials provided by the buyer and will meet all commitments ensuing from these claims as her own commitments and pay all damages ensuing from these claims to the supplier.

## **Article 7 - Warranty**

1. The supplier guarantees that the goods supplied meet the technical specifications at the time of delivery and guarantees that the goods delivered will not have any material, constructional and or productional faults occurring during a period of 12 months following delivery. This warranty obligates the supplier exclusively to – at the supplier's discretion -:

- a) Delivery of substitute – parts of – goods by and at the expense of the supplier;
- b) Refund by the supplier to the buyer of – the part of – the item in which the fault occurs with a maximum of the invoiced value of the goods delivered in case repair of the faults or deliveries of substitute – parts of – items by the supplier are not possible.

2. The warranty in article 7, paragraph 1, is not applicable with regard to:

- a) Goods that are used or treated incorrectly, carelessly, incompetently and/or under abnormal circumstances;
- b) Goods that are repaired, maintained and/or altered by others than the supplier;
- c) Faults in goods that ensue from external causes;
- d) Goods of which the price has not – or not fully - been paid to the supplier;
- e) Goods that were obtained by the supplier from another supplier.

3. On an item obtained by the supplier from another supplier only the warranty granted by the other supplier in favour of the supplier is applicable. The supplier shall inform the buyer about the – import of – the warranty granted by another supplier if requested.

4. The warranty referred to in article 7 is only applicable in case the buyer notifies the supplier within 5 work days after the delivery or - in case of a by the supplier unobservable fault – within 5 work days after observing the fault. The buyer subsequently needs to return the item postage-paid and in the original packaging to the supplier no later than 10 days. Failing to do so cancels any right to warranty by the buyer.

5. The supplier is not further responsible or liable with regard to material and productions faults in goods delivered other than expressed in this article.

## Article 8 – Liability and compensation

1. The supplier's total liability due to an attributable failure in the performance of the contract or on any legal basis whatsoever, expressly including each and every failure to fulfil a warranty obligation agreed with the buyer, shall be limited to compensation for direct loss up to a maximum of the price stipulated for the contract concerned (excluding VAT). If the agreement also includes a continuing performance agreement over time with a term of more than 1 (one) year and supplier's liability flows forth from the agreement over time, the stipulated price will be calculated on the basis of the total amount (excluding VAT) as actually paid by buyer to supplier on the basis of the agreement over time for 1 (one) year (this being the year in which the damage occurred) to a maximum of € 15.000.-.

2. The total liability of supplier for a failure in the performance of a warranty obligation and/or an offered indemnification constitutes an exception to clause 8.1; this is limited to twice the total amount of the compensations (excluding VAT) received by supplier from buyer for 1 (one) year, with a maximum of € 30.000,-, whereby a sequence of events is regarded as one event.

3. Supplier's total liability for damage resulting from death or physical injury will in no event amount to more than € 50.000.-, whereby a sequence of events is regarded as one event.

4. Supplier can also not be held liable for indirect loss, consequential loss, loss of profits, lost savings, reduced goodwill and loss due to business interruption.

## Article 9 – Force majeure

1. The supplier and her buyer are entitled to claim force majeure in case the execution of the assignment is temporarily or otherwise hindered or hampered by circumstances reasonably out of their control, such as company pickets, strikes, lightning strikes or work to rule and exclusion, lack of material, delayed supply of goods ordered with third parties other than circumstances attributable to either party, accidents, interruption of operations, unforeseen problems with production or transportation, devaluation, increase of charge or taxes of any kind, fundamental alterations of the prices of materials or energy and dissolution, withdrawal or non-extension of required permits, certificates, licenses and such.

## Article 10 – Disputes

10.1 The laws of The Netherlands shall govern any contract and any dispute arising from or relating to this Agreement.

10.2 All disputes arising in connection with the agreement, or further agreements resulting therefrom, shall be settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (<https://www.nai-nl.org/en/>). The arbitral tribunal shall be composed of one arbitrator. The arbitral tribunal shall be appointed according to the list procedure. The place of arbitration shall be The Hague. The proceedings shall be conducted in the English language.