

General Terms and Conditions of:

Dayseaday Fresh B.V.
Schulpengat 9
8321 WC Urk
The Netherlands

Chamber of Commerce registration number: 390783350000

(AS 134G-16)

Artikel 1: Scope, definitions

1. These General Terms and Conditions apply to every offer made by and every sales contract with Dayseaday Fresh B.V., with its office in Urk, the Netherlands, hereafter referred to as the 'User'.
2. The buyer is referred to as the 'Counterparty'.
3. 'Offer' is defined as every offer made by the User, whether or not in the form of a written tender.
4. 'Written' is defined as letter, e-mail, fax, or any other method of communication that can be considered equivalent to these, having regard to the current state of technology and generally accepted practice in social and economic life.
5. 'Goods' are defined as both perishable and imperishable goods.
6. 'Imperishable Goods' are defined as frozen or dehydrated food products, other products with a long shelf life, and all products with an unlimited shelf life.
7. 'Perishable Goods' are defined as fresh food products or other products that can or will deteriorate in quality after a relatively short period.
8. Should any provision or part of a provision of these General Terms and Conditions prove to be inapplicable, this does not affect the applicability of the remaining provisions.
9. In the event of a discrepancy or conflict between these General Terms and Conditions and a translation thereof, the Dutch text prevails.
10. These General Terms and Conditions also apply to any repeat or partial orders arising from the contract.

Artikel 2: Offer, prices

1. Unless a period of validity is stated in or with an Offer, the Offer is without obligation. The User may recall this Offer within a maximum of two working days after receiving the acceptance.
2. The prices listed in an Offer or price list are exclusive of VAT and any costs such as transport costs, shipping costs, administration costs, processing costs, and invoices from any third parties brought in.
3. In the case of a compound Offer the User is not obliged to deliver part of the offered Goods for a proportionate amount of the price.
4. If the Offer is based on information provided by the Counterparty that proves to be inaccurate or incomplete or that changes at a later date, the User may adjust the stated prices and/or delivery periods.
5. The Offer and the prices do not automatically apply to return orders.
6. The shown and/or supplied samples, models, statements of weight, content, volume, and other descriptions in brochures, promotional material and/or the website belonging to the User are as accurate as possible but serve only as indications. The Counterparty can derive no rights from this information.
7. Any samples and models supplied remain the property of the User and must be returned to the User on demand at the Counterparty's expense.

8. If any circumstances arise between the conclusion and the execution of the contract that entail an increase in prices or cost price for the User due to changes to laws and regulations, government measures, exchange rate fluctuations, or the prices of the required materials, raw materials, or ingredients, the User may increase the agreed-upon prices accordingly and charge the increase to the Counterparty.

Artikel 3: Conclusion of contracts

1. The contract is concluded after the Counterparty has accepted the User's Offer, even if this acceptance deviates from this Offer in regards to the points below. However, if the acceptance deviates in essential points, the contract is concluded after the User has agreed to these deviations in writing.
2. The User is only bound by:
 - a. an order without a prior Offer;
 - b. verbal agreements;
 - c. additions or changes to the General Terms and Conditions or the contract;after the User has provided written confirmation of this to the Counterparty or as soon as the User has started to execute the order or agreements without objection from the Counterparty.

Artikel 4: Bringing in third parties

If the User deems it necessary, it may have third parties carry out certain deliveries.

Artikel 5: Obligations of the Counterparty

1. The Counterparty shall ensure that it makes all information that is required for the execution of the contract available to the User in the way desired by the User, and that this information is accurate and complete.
2. The Counterparty may only resell Goods delivered by the User in their original package provided by the User or its supplier. The Counterparty shall not make any changes to the original package and shall endeavour to prevent damage to it.
3. If the Counterparty does not fulfil the above-mentioned obligations, or does not fulfil them in time, the User may suspend the execution of the contract until the Counterparty has fulfilled its obligations. The costs and other consequences arising from this are at the risk and expense of the Counterparty.
4. If the Counterparty does not fulfil its obligations and the User does not immediately require performance, this does not affect the right of the User to require performance at a later date.

Artikel 6: Delivery, delivery period

1. Deadlines agreed upon are never final deadlines. If the User does not fulfil its obligations or does not fulfil them in time, the Counterparty shall give the User written notice of default and also grant the User a reasonable period to remedy the breach.
2. An agreed-upon deadline takes effect once the User has received from the Counterparty all information necessary for delivery and any agreed-upon payment or advance payment. If a delay arises as a result of this, the deadline is to be extended proportionally.
3. The User may deliver in consignments and invoice each partial delivery separately.
4. The risk of the Goods to be delivered passes to the Counterparty at the moment that the Goods leave the User's building, warehouse, or shop or once the User has informed the Counterparty that the Goods can be collected.

5. The shipping or transport of the Goods is at the risk and expense of the Counterparty and occurs in a manner to be determined by the User. The User is not liable for damage of any kind whatsoever that is related to the shipping or transport.
6. If it is not possible, due to a situation within the control of the Counterparty, to deliver the ordered Imperishable Goods to the Counterparty in the manner agreed upon or these Imperishable Goods are not collected, the User may store the Imperishable Goods at the risk and expense of the Counterparty. The Counterparty shall then still make it possible for the User to deliver the Imperishable Goods or shall then still collect the Imperishable Goods within a reasonable deadline set by the User.
7. If the Counterparty fails to meet its obligations to accept the Goods within the above-mentioned reasonable deadline, it is immediately in default. The User may then dissolve the contract in whole or in part by means of a written statement with immediate effect and sell the Imperishable Goods to third parties without being obliged to pay compensation for damages, costs, or interest. This does not prejudice the obligation of the Counterparty to compensate the User for any costs (including storage costs), damage, or loss of profits incurred by the User, nor does it prejudice the right of the User to demand performance at a later date.
8. If, due to a situation within the control of the Counterparty, it is not possible to deliver the ordered Perishable Goods to the Counterparty in the manner agreed upon or these Perishable Goods are not collected, the Counterparty is in default by operation of law. The User may sell the Perishable Goods to third parties in order to limit the damage it incurs. If the User is unable to sell the Perishable Goods in good time, it may destroy them. When selling or destroying the Perishable Goods the User may then dissolve the contract in whole or in part by means of a written statement with immediate effect without being obliged to pay compensation for damages, costs, or interest. This does not prejudice the obligation of the Counterparty to compensate the User for any costs (including storage costs), damage, or loss of profits incurred by the User, nor does it prejudice the right of the User to demand performance at a later date.

Artikel 7: Packaging

1. Packaging that is intended to be used more than once remains the property of the User, and the Counterparty shall not use it for purposes other than those for which it is intended.
2. The User determines whether the packaging is to be returned by the Counterparty or collected by the User, and at which Party's expense this is to occur.
3. The User may charge a deposit to the Counterparty for this packaging. If the Counterparty returns the packaging postage paid within the agreed-upon deadline, the User shall accept the packaging. The deposit is then to be paid to the Counterparty or settled against the deposit for the packaging for a following delivery. The User may deduct 10% of the amount to be settled or repaid for processing costs.
4. If the packaging is damaged, incomplete, lost, or destroyed, the Counterparty is liable for this damage and loses its right to repayment of the deposit. If this damage amounts to more than the deposit charged, the User is not required to accept the packaging. In this case the User may charge the Counterparty for the cost price of the packaging, less the deposit paid by the Counterparty.
5. The User may leave packaging intended for single use with the Counterparty. Any removal costs are at the Counterparty's expense.

Artikel 8: Complaints and returns

1. The Counterparty shall check the delivered Goods immediately upon receiving them and shall list any visible defects, damage, deviations in number, and/or other non-conformities on the consignment note or accompanying receipt or, if these are missing, shall inform the User in writing of any visible defects, damage, deviations in number, and/or other non-conformities within two working days.

2. Complaints about Perishable Goods must be made within 24 hours of delivery.
3. If complaints of this nature are not reported in time, the Goods will be deemed to have been received in good condition and in conformity with the agreement.
4. The Counterparty shall report other complaints in writing to the User immediately upon discovery, or in any case within the relevant shelf life or warranty period. All consequences of the failure to immediately report complaints is at the Counterparty's risk. If no warranty period has been agreed upon, the deadline is one year after delivery. If no shelf life has been agreed upon or is stated on the Goods, that shelf life applies that is customary in the relevant sector.
5. If no complaint has been made in time, no claim can be made under the applicable shelf life or agreed-upon warranty.
6. If it is only possible to deliver ordered Goods in the package, wholesale package, or amounts in stock at the User, it is permissible for the Goods to have minor (acceptable within the sector) individual deviations in regards to indicated weight, amounts, colours, and sizes. These deviations are not shortcomings or breaches on the part of the User and no claim can be made under the warranty.
7. Complaints do not suspend the Counterparty's obligation to pay.
8. The Counterparty shall make it possible for the User to investigate the complaint and shall provide all relevant information. If a return shipment is required for purposes of the investigation, this is at the Counterparty's expense, unless the complaint subsequently proves to be valid. The transport risk always falls to the Counterparty.
9. The User determines the method of return shipment, and Goods for return are to be shipped in the original package or packaging.
10. No complaints are possible regarding:
 - a. imperfections in or characteristics of Goods produced from natural materials, raw materials, or ingredients, if these imperfections or characteristics are inherent to the nature of the materials, raw materials, or ingredients;
 - b. discolourations and minor individual colour deviations;
 - c. differences in odour and flavour, whether or not they are due to a changed recipe for food or other products;
 - d. differences in odour, colour, or other aspects, whether or not they are due to a changed formula for the product;
 - e. Goods which have, in terms of their nature and/or composition, been changed or wholly or partially modified or processed after receipt by the Counterparty.

Artikel 9: Warranties

1. The User executes the agreed-upon deliveries properly and in conformity with the standards applicable in its sector, but under no circumstances does it give a further-reaching warranty than that expressly agreed upon.
2. The User guarantees the customary quality and soundness of the delivered Goods for the shelf life or warranty period.
3. If the Goods delivered by the User are also subject to a warranty issued by the manufacturer or supplier, that warranty applies to both Parties equally. The User informs the Counterparty if there is any such warranty.
4. If the objective for which the Counterparty wishes to modify, process, or use the Goods deviates from the customary objective, the User only guarantees that the Goods are suitable for this objective if it has confirmed this in writing to the Counterparty.
5. No claim can be made under the shelf life deadline or warranty as long as the Counterparty has not paid the agreed-upon price for the Goods.

6. In the case of a valid claim under the shelf life deadline or warranty, the User shall, at its option, repair or replace the Goods at no charge or repay or provide a discount on the agreed-upon price. The provisions of the Article addressing liability apply to any additional damage.

Artikel 10: Liability

1. The User accepts no liability whatsoever beyond the warranties explicitly agreed upon or issued by the User.
2. The User is only liable for direct damage. Any liability for consequential damage, such as trading loss, loss of profits and/or loss incurred, loss due to delay, and/or personal or bodily injury, is expressly excluded.
3. The Counterparty shall take all necessary measures to prevent or limit damage.
4. If the User is liable, the liability for compensation is always limited to a maximum of the amount that is paid out by its insurer in that particular case. If the insurer does not pay anything out, or if the damage is not covered by insurance taken out by the User, the liability for compensation is limited to a maximum of the invoice amount for the delivered Goods.
5. The Counterparty must claim damages incurred from the User no later than six months after the Counterparty became or could have become aware of the damages incurred.
6. The User is not liable, and the Counterparty can make no claim under the applicable shelf life or warranty, if the damage is the result of:
 - a. incompetent use or use in contradiction of the designated use of the delivered Goods or the instructions, advice, user's manual, information leaflet, etc. provided by or on behalf of the User;
 - b. incompetent storage or maintenance of the Goods;
 - c. errors in or incompleteness of the information provided to the User by or on behalf of the Counterparty;
 - d. directions or instructions given by or on behalf of the Counterparty;
 - e. a choice made by the Counterparty that deviates from what is customary and/or what was advised by the User;
 - f. work, repairs, or adaptations carried out on the delivered Goods by or on behalf of the Counterparty without express prior permission from the User.
7. In the cases listed in the previous paragraph, the Counterparty is fully liable for the resulting damage and indemnifies the User against any claims by third parties.
8. The limitations of liability listed in this Article do not apply if the damage is due to malice and/or wilful recklessness on the part of the User or the management-level executive staff or if mandatory statutory provisions dictate otherwise. Exclusively in these cases, the User shall indemnify the Counterparty against any claims by third parties.

Artikel 11: Payment

1. The User may always request an advance payment, partial advance payment, or other payment security.
2. Payments must be made within a due date of 30 days from the invoice date, unless the Parties have agreed upon a different payment term in writing. In this regard, the accuracy of an invoice is established if no objection is made within this payment term.
3. If, after the expiration of the payment term described in the previous paragraph, an invoice has not been paid in full or it has not been possible to make a direct debit collection, the Counterparty owes the User default interest in the amount of 2% per month, calculated cumulatively on the principal. Portions of a month are seen as a full month in this regard.

4. If payment is still not forthcoming after having been demanded, the User may additionally charge to the Counterparty extrajudicial collection costs in the amount of 15% of the invoice amount, with a minimum of €40.00.
5. For purposes of calculating the extrajudicial collection costs, the User may, after one year, increase the principal by the amount of the default interest accumulated in that year.
6. If complete payment is not forthcoming, the User may terminate the contract by written statement without further notice of default or suspend the performance of its obligations under the contract until payment is made or proper security is provided. The User also has the right of suspension mentioned above if it has well-founded reasons, even before the Counterparty is in default on payment, to doubt the Counterparty's creditworthiness.
7. Payments received by the User will first be deducted from all interest and costs owed, then from the oldest outstanding due and payable invoices, unless a written statement is made with the payment that it pertains to a later invoice.
8. The Counterparty may not offset the User's claims against any counterclaims which it has against the User. This also applies if the Counterparty requests suspension of payments or a provisional moratorium or is declared insolvent.

Artikel 12: Retention of title

1. All Goods delivered or to be delivered pursuant to the contract remain the property of the User until the Counterparty has complied with all its payment obligations.
2. These payment obligations consist of the payment of the purchase price of the Goods, increased by claims connected to the delivery for work carried out and claims by reason of an attributable breach on the part of the Counterparty, such as claims for the payment of damages, extrajudicial collection costs, interest, and any fines.
3. In the case of delivery of identical, non-identifiable Goods, that batch corresponding to the oldest invoices is considered to be the first one sold. In all cases, the User retains title in all delivered Goods which, at the time retention of title is invoked, are neither in the stocks, shop, nor inventory of the Counterparty.
4. The Counterparty may resell the Goods in the framework of its normal business operations, on the condition that it also demands retention of title on these Goods from its buyers.
5. As long as the User retains title in the Goods, the Counterparty shall not in any way pledge them or bring them under the actual control of a financier.
6. The Counterparty shall immediately inform the User in writing if third parties assert that they retain title in the Goods or have other rights to the Goods.
7. As long as the Counterparty is in possession of the Goods, it shall store them with care and as the identifiable property of the User.
8. The Counterparty shall make sure that it has commercial insurance or contents insurance which at all times includes under the policy Goods delivered under retention of title. The Counterparty shall allow the User, on demand, to inspect the insurance policy and corresponding proofs of premium payment.
9. If the Counterparty acts in a manner contrary to this Article or if the User makes a claim under retention of title, the User and its employees may enter the Counterparty's grounds and repossess the Goods. This does not prejudice the right of the User to claim compensation for damages, loss of profits, and interest or to terminate the contract by written statement without further notice of default.

Artikel 13: Insolvency, lacking power of disposition, etc.

1. The User may terminate the contract by written statement to the Counterparty without further notice of default if the Counterparty:
 - a. is declared insolvent or petitions for liquidation;

- b. requests suspension of payments or a provisional moratorium;
 - c. is subject to executory attachment;
 - d. is placed under guardianship or administration;
 - e. otherwise way loses the power of disposition or legal competency over all or part of its assets.
2. The Counterparty shall in all cases inform its guardian or administrator of the existence and contents of the contract and these General Terms and Conditions.

Artikel 14: Force majeure

1. In the case of force majeure on the part of the Counterparty or the User, the User may terminate the contract by means of a written statement to the Counterparty or suspend the performance of its obligations to the Counterparty for a reasonable period of time without being obliged to pay any compensation.
2. Force majeure affecting the User is defined as a non-attributable breach on the part of the User, third parties brought in by the User, or suppliers; or other compelling reasons on the part of the User.
3. The following circumstances are in any case considered force majeure affecting the User: war; riots; mobilization; civil commotion domestically or abroad; government measures; strike actions or the threat thereof or similar circumstances within the User's organization; disruption of the exchange rate in effect at the moment of entering into the contract; operational failures as a result of fire, burglary, sabotage, electrical power failure, or failure of internet or telephone connections; natural phenomena, natural or other disasters, etc., including as a result of weather conditions; roadblocks; accidents; and measures hindering imports and exports and similarly arising transport difficulties and delivery problems.
4. If the force majeure event occurs when the contract has already been partially executed, the Counterparty shall fulfil its obligations to the User until the moment of the event.

Artikel 15: Cancellation, suspension

1. If the Counterparty wishes to cancel the contract prior to or during the execution thereof, the User may request from the Counterparty a fixed amount in compensation for all costs incurred and the damage incurred as a result of the cancellation, including the loss of profits. The User may set the compensation at anywhere from 20% to 100% of the agreed-upon price, at its discretion and depending on the deliveries already carried out.
2. The Counterparty indemnifies the User against any claims by third parties arising from the cancellation.
3. The User may deduct from the amount of the compensation all amounts paid by the Counterparty and the amount of any counter-claims by the Counterparty.
4. If the Counterparty requests suspension of delivery/deliveries, the payment for all deliveries made is immediately due and payable and the User may charge this amount to the Counterparty. This also applies to costs already incurred and costs arising from the suspension.
5. Costs for the User that arise from the resumption of the delivery/deliveries are payable by the Counterparty. If the execution of the contract cannot be resumed after the suspension, the User may terminate the contract by means of a written statement to the Counterparty.

Artikel 16: Applicable law, competent court

1. The contract entered into by the Parties is exclusively governed by Dutch law.
2. The application of the Vienna Convention (CISG) is expressly excluded.

3. Any disputes are to be submitted to the competent court in the User's place of business, but the User retains at all times the right to submit the dispute to the competent court in the Counterparty's place of business.
4. If the Counterparty has its office outside the Netherlands, the User may choose to submit the dispute to the competent court in the country or state where the Counterparty has its office.

Date: 3 August 2016