

Article 1: Scope of Application

These terms and conditions shall govern all legal relations with the private limited company Welmar Seafood B.V., having its Registered Office at Hendrik Ido Ambacht, hereinafter referred to as "Welmar", or undertakings associated with Welmar, as well as Welmar's contractual parties, who shall hereinafter be referred to as "the client". These commercial terms and conditions shall be applicable in the first instance to all offers and agreements of purchase and supply as also other contracts whether or not associated with such offers and agreements. The parties declare these terms and conditions to be applicable to agreements already entered into earlier as well as to future agreements. Deviations from these terms and conditions shall only be valid if Welmar confirms the same in writing. Any terms and conditions of the client are hereby expressly excluded.

Article 2: Agreements/Offers

All offers and quotations issued by or in the name of Welmar shall be for an indefinite period, unless otherwise agreed. An agreement will only come into existence – whether or not preceded by an offer – if the order and/or commission to do work is confirmed by Welmar in writing, or where actual performance against the order has already been rendered. Oral agreements and stipulations shall only bind Welmar after these have been confirmed in writing by persons authorised in this behalf by Welmar. All the data appearing in the publications and advertising material of Welmar are non-binding and are subject to change. Welmar shall not be responsible for the correctness or completeness of the data contained in the same. The client cannot obtain grounds for making any claims in connection with folders and other documents or errors contained in the same.

Article 3: Delivery

A delivery period specified by Welmar or agreed with the client shall always apply in approximate terms, and can never be understood to be fixed and final. If delivery is not made in time, the client will specify another reasonable delivery date to Welmar, in writing. Welmar will in such cases not be held liable to pay damages of any nature in this connection. Welmar shall have the right to make delivery against the order in instalments. It shall also apply that delivery will be made without insurance cover from the respective Stores locations, unless otherwise decided. The delivery period shall commence from the applicable point in time, namely: the date of order confirmation in writing by Welmar, the date of receipt of the due date of payment determined at the time of placing the order and the date of the documents and/or securities to be handed over to Welmar. The client is bound to accept the purchased material within the agreed time. If the client continues in default in spite of reminders, whether oral or in writing, Welmar is authorised to dissolve the agreement and/or to demand compensation for damages, in which the client must at least pay back the purchase value of the goods not accepted. If Welmar wants to have performance of contract, the items will be deemed to have been accepted by the client, whereafter Welmar will retain the goods in question in its stores at the account and risk of the client.

Article 4: Price and Payment

The agreed price shall be exclusive of turnover tax and shall be based on the price-determinant factors known at the time of making the offer. Welmar shall at all times be authorised to increase the prices charged at intermediate intervals, and to also charge for any extra out-of-pockets costs incurred by it, to the client. Welmar shall be entitled to charge the client all - increases in - taxes, duties, levies, import duties, excise duties and rates of exchange. Payment shall be made in cash or against invoice, and in such case within 30 days of the date of invoice. Welmar shall always be authorised to demand part payment in advance. Deductions, retentions or write-offs shall only be permissible if Welmar agrees to the same in writing. Payments shall be made to bank- or giro account numbers specified by Welmar. The costs involved in making such payments shall be borne by the client. If the client does not fulfil his obligations, he shall, without there being any need for Welmar to issue a notice of non-fulfilment of contract to the client, be liable to pay Welmar a penal rate of interest of 1.5%, to be calculated from the date of the invoice, whereby a part of the month shall be counted as a full month, and the client shall also be liable to pay the extra-judicial collection costs, which for these purposes are set at 15% of the amount due, subject to a minimum of € 250,—, excluding Value Added Tax and without prejudice to the right of Welmar for compensation of the actual and out-of-pocket costs. The claim against the client shall be instantly and fully claimable, together with the interest and the costs as calculated, in the case of any other failure of the client to fulfil the contract, or in cases where the goods of the client are distrained or requisitioned, or the client files for postponement of payments to his creditors, or for a declaration of bankruptcy. The client shall also be deemed to be in default for the purposes of the law notwithstanding any earlier due date agreements. In the case of non-payment of debt, as well as in the above situations, Welmar shall be authorised to suspend fulfilment of Welmar's obligations under the contract, or to (partially) withdraw from the agreement without thereby incurring any liability to pay damages. Notwithstanding any provisions contained in the normal payment terms and conditions, Welmar shall always have the right to demand sufficient security or advance payment before making delivery. If such advance payment is not received within the time set, Welmar is authorised to terminate the agreement without incurring any liability to pay compensation. Payments received will first be written-off against interest and collection costs which may have become due, and the amount left over will be written-off against the invoice.

Article 5: Reservation of Proprietary Right

As long as the client has not paid off the full amount of the invoice in question – with interest and costs which may have become due, the items supplied shall remain the property of Welmar. The property shall only be transferred to the client, as soon as the client has fulfilled his obligations under the agreement or under these terms and conditions. The client does not have the right to pass on goods which have not been paid for to third parties, unless otherwise agreed, and unless the same is part of normal commercial practice. Welmar shall, at all times, have access to the relevant items delivered wherever these may be located, and Welmar shall also have the right to take back the items delivered forthwith in case of non-payment.

Article 6: Complaints

The client must inspect the goods on receipt; if possible, he must also test a few samples in the laboratory on a random basis. Complaints about quality or quantity, or other deviations and/or damages, must be communicated by the client in writing – by post or by fax – to Welmar within a maximum of 3 days of the receipt of the goods in question taking into account the nature and the urgency of the items supplied. In principle, no complaints will be entertained if the client has done anything to the items delivered by way of processing, or has passed them on to third parties. The client shall only be authorised to return a delivery after consulting with Welmar and after obtaining its approval. If possible, both these actions should be done in writing. Differences in the weight or the quantity supplied, as well as any obvious damage to the packing must be immediately noted on the delivery note or other transportation documents, and in the absence of such notations or remarks, the client will not be able to take any action against Welmar in the matter. Minor deviations shall not constitute a reason for refusing goods or to cancel the contract. Complaints of any nature whatsoever do not relieve the client of his payment obligations. The right to make complaints will cease if the products have been tampered with or processed. Welmar shall have the option, if the complaint is well grounded, to deliver the material agreed, or to take back or replace the items in question, or to resile from the agreement and to write back the payments made, against the client.

Article 7: Return of Goods

Goods supplied can only be returned by the client after consulting with and with the approval of Welmar. In such case, Welmar shall provide the client with a goods returned number. If no goods returned number is given, or if goods are returned with other defects, Welmar shall have the right to refuse to accept the goods so returned. All costs relating to such return of goods shall be borne by the client.

Article 8: Force Majeure

In a situation involving force majeure, in other words, where there are circumstances which obstruct the execution of the terms of the agreement, and such circumstances cannot be ascribed to the act or omission of one of the parties - Welmar shall have the option to interrupt the execution of the contract, or to resile from the contract on the basis of a declaration in writing, citing the circumstance which is obstructing it from executing the terms of the agreement. In such case, there will be no obligation on the part of the client to pay compensation for loss to Welmar, except for the costs actually incurred by Welmar. If Welmar has already satisfied his obligations under the agreement at the time when the situations involving force majeure arose, or cannot satisfy his obligations to some extent, Welmar shall have the right to separately raise an invoice for work already done, and for the work remaining to be done. The client is also bound to honour the invoice as though it related to a separate contract. One may speak of a situation involving force majeure if the execution of the agreement is hindered or prevented by war, rebellion, riots, fire, damage by water, floods, strikes, lock-outs, restrictions on entry or exit, acts of government, defects in machinery, power failure or supply of materials by third party.

Article 9: Guarantee

Welmar undertakes to supply the client materials of good quality, in the correct quantity, but always subject to the condition that there is a sufficient haul or catch of fish, and in accordance with the description contained in the offer or a more detailed document executed in writing between the parties. In general, Welmar will do everything in its power to render performance according to the agreement. Omissions/fauls in the material supplied may arise through the processing of the material, or through inexpert handling of the materials by the client or by third parties, and such cases shall always be excluded from the scope of the guarantee.

Article 10: Liability

As regards the work which has been agreed to, and which has been carried out by Welmar, Welmar shall only be liable for damages if a shortcoming can be ascribed to it in this connection. In such case, Welmar shall never be liable to compensate for damages covered by its liability insurance. Welmar undertakes to obtain a liability insurance of such a nature to the extent of an insured amount and subject to such conditions as may be customary for that branch of industry. If Welmar or any of its employees engage in an illegal act, Welmar shall only be liable to compensate damage in the form of death or physical injury. Even in such cases, the liability shall be limited to the total amount which is insured. No liability will be accepted by Welmar in cases where deliveries are made after the delivery period, or where the client fails to give him the required co-operation, or due to materials supplied by third parties, or for personal or physical injury, imaginary injury or consequential damages. The client indemnifies Welmar against all the claims of third parties in connection with violations of intellectual property rights. In addition, the client hereby undertakes not to violate the intellectual property of Welmar, which may be associated with the models, drawings, designs and other performances.

Article 11: Product liability

As regards questions related to quality, the parties set on record that they are well aware of the sensitivity and susceptibility of fish products to damage in general. The client also undertakes to strictly follow the European packing and usage regulations and all the other relevant (European) regulations. The client further declares that he will take every effort to ensure that any risk of negative effects on the environment or public health involved in the products supplied by him is kept down to the minimum possible. If required, he will consult with Welmar to find out the best solution to the problem. These efforts will take into account the composition and the tenability of the products sold, and the microbiological, bacteriological, and other hygiene-related properties and standards. In view of the special nature of the commercial activities of Welmar, as well as the circumstance, well known to the client, that Welmar does not make any substantial addition to or carry out any special processing of its fish products in connection with the import or export of the same, and therefore cannot be said to exercise any influence on the nature and composition of these products, Welmar will not accept any claims against it, whether raised by the client or by third parties, in respect of the same. In its transactions, Welmar is only liable for damage resulting directly from a fault which is directly ascribable to it or which has been knowingly committed by it. Welmar also accepts no liability on account of delays in supplying material, or material supplied by third parties, or wrong information, or refusal to accept products. Furthermore, Welmar will also not accept any claim made against it for product shortcomings such as: A) The product has not been at all handled or treated by Welmar, B) It is apparent that the fault was not in existence at the time of delivery, C) That the fault has occurred due to exigent regulations issued by authorities, D) The fault is to be ascribed to the nature, type or composition or maintainability of the products, E) The fault has arisen due to product information supplied by the sub-contractor or F) The fault is not traceable, taking into account the progress in science and technology.

Article 12: Jurisdiction and Reference of Disputes

As regards all legal matters in connection with Welmar, only the law of the Netherlands shall apply. The provisions of the Viennese Standard Commercial Terms and Conditions or other international regulations, the application of which the parties are free to exclude, are expressly excluded hereby. The parties expressly and unconditionally select their domicile as the registered address of Welmar, (Hendrik Ido Ambacht), where this agreement will also be deemed to have been concluded. All the legal relations between the parties arising out of or related to disputes, shall in the first instance, be exclusively decided by the district court at Dordrecht, unless Welmar prefers to accept a different judge or forum authorised by the law, or the parties themselves refer the dispute to arbitration.