

## SALES & DELIVERY TERMS FOR



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# LÆSØ CHOICE

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*Northcoast & Læsø corp.*

## 1 Scope

- 1.1 These Sales and Delivery Terms apply to any sale and delivery of Products made by the Seller, unless otherwise explicitly agreed in writing between the Parties.
- 1.2 In the event of any discrepancy between these Sales and Delivery Terms and the Buyer's general terms and conditions, these Sales and Delivery Terms shall prevail, unless otherwise explicitly agreed in writing between the Parties.
- 1.3 Where the Seller and the Buyer enter into a framework agreement for the sale and purchase of Products, these Sales and Delivery Terms shall apply to any quotation, order and/or Confirmation under such framework agreement, except where specifically excluded in the framework agreement. In the event of any discrepancy between such framework agreement and these Sales and Delivery Terms, the terms and conditions of the framework agreement shall prevail.

## 2 Definitions

- 2.1 Unless otherwise defined herein or the context otherwise requires, capitalised terms used herein shall have the meanings set forth below:

"Agreement"	has the meaning set out in Clause 3.5;
"Business Day"	means a day (other than Saturday and Sunday) on which banks are generally open for business in Copenhagen, Denmark;
"Buyer"	means the contracting party who has placed an order for Products with the Seller;

"Confirmation"	means the Seller's confirmation of an order, either by the issue of a written order confirmation to the Buyer or by the entering into of a Sales Contract;
"Confidential Information"	means a Party's commercial and operational information and know-how and any other information not generally known or reasonably ascertainable;
"Party"	means either the Seller or the Buyer;
"Product"	means a product of the Seller which is the subject of an order placed by the Buyer with the Seller;
"Purchase Price"	means the purchase price for the Products stated in the relevant Confirmation;
"Quantity"	means the aggregate weight in kilos of a given Product. Unless otherwise stated in the relevant Confirmation, the weight is based on the Product being in frozen condition as supplied to the Seller by its sub-supplier;
"Sales and Delivery Terms"	means these terms of sale and delivery, including any exhibits and schedules;
"Sales Contract"	means a written agreement entered into between the Seller and the Buyer upon the Buyer having placed an order for Products, and which agreement confirms the Seller's sale and delivery and the Buyer's purchase of the Products;
"Seller"	means Læsø Choice A/S, company registration no. (CVR) 39 95 01 89, Nordre Ringgade 5, PO box 30, 9330 Dronninglund, Denmark.

### **3 Formation of Agreement - Quotation, Order and Confirmation**

- 3.1 No quotations from the Seller shall be considered legally binding. All quotations are subject to the Products being unsold, meaning that the Seller does not warrant that the Products covered by a quotation will be available for delivery upon the Buyer's ordering.
- 3.2 All orders placed by the Buyer must be in writing and shall at the minimum specify the type of Products and Quantity as well as the place of delivery. Further, see Clause 5.1.5. Unless

otherwise specified in the order, the Buyer's order shall remain binding upon the Buyer for a period of thirty (30) days from the Seller's receipt of the order.

- 3.3 When the Buyer has placed an order with the Seller, no modifications can be made to the Buyer's order without the Seller's prior written approval.
- 3.4 The Buyer's orders are not binding upon the Seller, unless and until the Seller has confirmed the order by a Confirmation.
- 3.5 A binding agreement for the sale and delivery of Products shall be deemed to exist between the Parties when the Seller has confirmed an order by a Confirmation. Such agreement comprises these Sales and Delivery Terms, the individual order (to the extent confirmed by the Confirmation) and the individual Confirmation (collectively the "Agreement"). In the event that the Parties have entered into a framework agreement, this shall, subject to Clause 1.3, apply as part of each such separate Agreement, but shall not, unless otherwise set out therein, cause more orders and Confirmations to constitute one and the same "Agreement".

#### **4 Product Selection**

- 4.1 Except to the extent otherwise stated in the Agreement, the Seller is free to choose the specific consignment/batch of Products, and without specific regard to the place of origin, to be delivered to the Buyer in connection with its performance of the delivery obligations under the individual Agreement.

#### **5 Delivery**

##### **5.1 Delivery Terms**

- 5.1.1 The Seller shall deliver the Product to the Buyer in accordance with the Incoterms 2010 rule as specified in the Agreement.
- 5.1.2 For any delivery where the bill of lading or other relevant title documents are handed over to the Buyer or its representatives prior to the delivery date stated in the Agreement, delivery of the Products is for all legal purposes, including the passing of risk, deemed to have taken place upon the handover of such document(s), irrespective of the Incoterms 2010 rule applicable to the Agreement in question. However, the shipment and the physical delivery of the Products will take place in accordance with the Agreement, irrespective of the handover of such document(s).
- 5.1.3 The delivery date(s) are indicated in the Confirmation. The stipulated delivery date(s) are approximate and for guidance only, and the time of delivery shall not be of the essence. A delay in delivery, other than as a result of gross negligence or wilful misconduct on the part of the Seller, does not entitle the Buyer to any remedies.
- 5.1.4 If no specific delivery date has been indicated in the Confirmation, the Seller, acting reasonably, is entitled to stipulate a delivery date by written notice, taking into consideration the Quantity and the nature of the Products to be delivered.

- 5.1.5 The Buyer shall in the order inform the Seller of any specific requirements to be considered as part of the delivery of the Products.
- 5.1.6 The Seller reserves the right to make partial shipment, partial delivery and/or transshipment. Each partial shipment or delivery shall be regarded as fulfilment of a separate and independent Agreement.
- 5.1.7 The Seller reserves a margin of  $\pm$  ten (10)% with regard to the Quantity of Products actually delivered compared to the Quantity stated in the relevant Confirmation. Delivery within this margin shall be considered full and timely delivery in accordance with the Agreement. If the lower margin is exceeded, the Buyer may complain in accordance with the procedure set out in Clause 11. In cases comprised by Clause 5.1.6, the assessment pursuant to this Clause 5.1.7 shall be made when the Seller has made the last of the partial deliveries.
- 5.1.8 The weighing of the Products by the Seller's sub-supplier forms the basis of the weight stated in the relevant Confirmation (Quantity) as well as of the Seller's invoicing for the Quantity of Products delivered to the Buyer under the Agreement in question.

## **5.2 *Inspection and Acceptance of the Products***

- 5.2.1 The Buyer must inspect the Products upon delivery. The Buyer is deemed to have accepted the Products, unless written notice of rejection, specifying the reasons for the rejection, is given to the Seller within ten (10) Business Days after delivery of the Products. The Buyer cannot raise any claim in respect of any visible damage or defect which is or could have been detected during such inspection and which has not been notified to the Seller before the aforementioned deadline.

## **5.3 *Delay due to the Buyer's Circumstances***

- 5.3.1 If the Buyer fails to take timely delivery of the Products - or if, where the Buyer is to give delivery instructions, the Buyer fails to give such instructions - the Seller may at its discretion, and as further described in this Clause 5.3 below, either extend the time of delivery or shipment of the Products, and store the Products at the Buyer's risk and cost until actual delivery, or terminate the Agreement or any part thereof, in either case without prejudice to any other right or remedy available to the Seller.
- 5.3.2 In events as stated in Clause 5.3.1, the Seller shall be entitled to issue the relevant invoice and claim payment in accordance therewith as if delivery had taken place on the applicable delivery date. Such stipulated date of delivery shall be considered the date of delivery for the purpose of the agreed delivery terms, in particular with respect to the passing of risk.
- 5.3.3 The Seller is under no obligation to take care of or store the Products in the event of delayed delivery due to the Buyer's circumstances. To the extent that the Seller undertakes to make arrangements for storage of the Products, the Buyer agrees to pay all related costs, including all storage costs and handling and transportation costs.

5.3.4 In events as stated in Clause 5.3.1, the Seller is entitled to request that the Buyer accepts delivery of the Products within a specified period of time. If the Buyer does not accept delivery of the Products within this period of time, the Seller is entitled to terminate the Agreement and any parts thereof and to sell the Products to a third party. The Buyer shall indemnify the Seller for any costs and losses incurred by the Seller related thereto, including costs incurred under Clause 5.3.3.

## **6 Labelling and Packaging**

- 6.1 Unless otherwise stated in the Agreement, the Seller's or the sub-supplier's standard packaging will be used, and the costs associated therewith are included in the Purchase Price.
- 6.2 Where the Seller shall (i) pack the Products with the attachment of labels or by using graphics, trademarks, etc. provided by the Buyer or (ii) pack the Products in packaging provided by the Buyer or acquired by the Seller as per the instruction of the Buyer, such obligation shall have been specifically agreed to by the Seller in the Agreement. Clause 5.3 shall apply where the Buyer is in delay with its deliveries for this purpose.
- 6.3 In cases comprised by Clause 6.2, and in addition to any other conditions set by the Seller, the Buyer shall be responsible for and warrants to the Seller that, where relevant, the label(s), graphic(s), trademark(s), etc. and packaging, separately and when used with the Products, comply with applicable law, are safe for use and do not violate any third party rights, including intellectual property rights. The Buyer undertakes to indemnify and hold the Seller harmless from and against any and all claims and losses (including any damages, fees, fines and costs,) in respect thereof.

## **7 Purchase Price, Payment and Interest**

### **7.1 *Purchase Price***

- 7.1.1 The price quoted in the Seller's quotation with regard to the Products is based on the market price at the time. However, the Purchase Price for the Products is the price set out in the Agreement and may deviate from the quoted price. The Purchase Price shall be paid strictly in accordance with the payment terms set out in Clause 7.2.
- 7.1.2 The Purchase Price covers only the Quantity of the Products and accessories, if any, which are specified in the Agreement.
- 7.1.3 At any time before delivery has been completed, and to the extent that such costs are payable by the Seller, the Seller shall be entitled to adjust the Purchase Price in consequence of an increase in costs beyond the Seller's control, such as, but not limited to, increases in duties and taxes related to the delivery in question.

### **7.2 *Payment Terms***

- 7.2.1 Payment shall be made on the date stated in the Confirmation or, if not stated in the Confirmation, on the date stated in the Seller's invoice.
- 7.2.2 The Seller is always entitled to request, as a condition for shipment and delivery, that the Buyer provides satisfactory security for the payment of the Purchase Price to the Seller or that the Purchase Price is prepaid in whole or in part.
- 7.2.3 All amounts are stated in the currency specified in the Agreement and do not include Value Added Tax (VAT) or other taxes or duties.
- 7.2.4 If the Buyer makes the payment via bank transfer to the Seller, the payment shall not be considered effective until the amount is made available on the Seller's bank account.
- 7.2.5 The Buyer is not entitled to set off any claim the Buyer may have against the Seller against any amount payable to the Seller under the Agreement, unless the Seller has accepted such claim in writing.

### **7.3 *Late Payments and Calculation of Interest***

- 7.3.1 If the Buyer fails to make any payment under the Agreement, the Buyer shall, from the due date of such payment, pay interest of the unpaid amount at a rate of one (1)% per month. Such interest shall be payable without any further notice from the Seller to the Buyer.
- 7.3.2 If the Products are to be delivered successively, the Seller is entitled to withhold a delivery if the Buyer has defaulted on payment for one or more previous deliveries.

### **7.4 *Insurance***

- 7.4.1 Subject to the applicable Incoterms 2010 rule, see Clause 5.1.1, the Buyer shall take out insurance coverage to cover all Products in transit as well as all unpaid Products already delivered to the Buyer.

## **8 Retention of Title**

- 8.1 The title to the Products remains vested in the Seller and shall not pass to the Buyer until the Products have been paid for in full, including interest, to the extent that such retention of title is valid under applicable law. The retention of title shall not affect the passing of risk in accordance with Clause 5.1.
- 8.2 However, where the Seller has created a country-specific addendum to these Sales and Delivery Terms in respect of retention of title, such country-specific retention of title shall prevail over Clause 8.1 and be binding on the Buyer. Without limitation, a country-specific addendum with separate terms and conditions for retention of title will apply to Buyers in the UK and in Germany. The current version of such country-specific addendum can always be found on the Seller's webpage: [www.kangamiut.dk](http://www.kangamiut.dk)

## **9 Return of the Products**

9.1 The Buyer is not entitled to return any Products.

## **10 Storage of the Products**

10.1 The Buyer is obliged to store the Products under conditions that, from a health perspective, are suitable for the type of Products in question.

## **11 Defects and Complaints**

11.1 The remedies stated in this Clause 11 shall constitute the Buyer's sole and exclusive remedies in respect of defects in the Products. Consequently, the Buyer is not entitled to damages or compensation for losses or costs the Buyer may incur in relation to defective Products.

11.2 The Seller's liability does not cover defects caused by circumstances that arise after the risk has passed to the Buyer.

11.3 For defects that are not and could not have been detected during the inspection described in Clause 5.2, the Seller's liability is limited to defects that appear within a period of ten (10) days from the date of delivery of the Products to the Buyer. It is for the Buyer to prove that the defect in the Product was present at the time of delivery of the Product. If requested by the Seller, the Buyer shall, without undue delay, deliver the defective Products or samples thereof to the address instructed by the Seller for analysis. The Buyer shall pay the delivery costs, but the Seller shall compensate the Buyer for its reasonable delivery costs if it is confirmed that the Products are defective.

11.4 If the Buyer, outside the situations comprised by Clause 5.2, intends to notify the Seller of defective Products, the Buyer shall notify the Seller in writing of the defect no later than twenty-four (24) hours after the defect is or reasonably ought to have been discovered.

11.5 After receipt of a written notice in accordance with Clause 5.2 or 11.4, including documentation for the defect(s), the Seller shall, at its sole discretion, either replace the defective Products at the place of delivery or credit the part of the Purchase Price invoiced for the defective Products without undue delay. The replacement shall be carried out by the Seller or by a third party on behalf of the Seller. In the event of replacement or credit, the Seller is entitled to take back the defective Products or require that the defective Products are destroyed in accordance with the Seller's instructions. The Seller shall bear all costs relating to such replacement and destruction.

11.6 If no defect is found for which the Seller is liable, the Seller shall be entitled to compensation for the work and the costs it has incurred as a result of the notice. Also, the relevant invoice shall be payable in full on the due date.

## **12 Limitation of Liability**

12.1 Unless otherwise stated in the Agreement, the Seller shall not be liable to the Buyer for any indirect, special, punitive or incidental damages, including, but not limited to, loss of profit, loss of revenue, production or operating losses, lost sales or contracts, loss of opportunity, loss of goodwill, or losses relating to marketing activity arising out of or relating to the Agreement.

- 12.2 The limitations set out in Clause 12.1 shall not apply to the Buyer. The Buyer is liable to the Seller in the event of breach of this Agreement for such damages and losses as set out in Clause 12.1 in addition to any other liability under the Agreement and applicable law.
- 12.3 Notwithstanding any other provision of the Agreement, the Seller's aggregate liability under the Agreement can in no event exceed the total sum of (i) the Purchase Price amount actually paid by the Buyer under the Agreement and (ii) EUR 100,000, including any liability for damages to a third party, such as, for example, but not limited to, product liability.
- 12.4 Without prejudice to other Clauses in the Agreement stipulating a shorter liability period, the Seller's liability under the Agreement will cease six (6) months from the time of the delivery.
- 12.5 The limitations of liability under the Agreement shall not apply where the Seller has been found guilty of fraud or other wilful acts or gross negligence, or if such limitation is found to be invalid under applicable law.

### **13 Liability for Damage caused by the Products (Product Liability)**

- 13.1 In the event of liability for damage caused by the Products (product liability), the limitations of liability following from the Agreement shall apply to the extent permissible under applicable law.
- 13.2 The Seller can only be held liable for personal injury caused by the Products if it can be proved that the injury was caused by failure or negligence committed by the Seller or others for whom the Seller is liable.
- 13.3 The Seller shall not be liable for any damage to property or movables caused by the Products after delivery has taken place. Nor shall the Seller be liable for any damage to products manufactured or held by the Buyer or to products of which the Products form a part.
- 13.4 Should any third party claim damages in accordance with this Clause 13 against one of the Parties, said Party is obliged to immediately notify the other Party thereof in writing. Both Parties are obliged to participate in any action brought before a court or an arbitration tribunal by a third party examining claims for damages lodged against one of the Parties on the basis of damage allegedly caused by the Products. However, disputes between the Buyer and the Seller shall be settled in accordance with Clauses 19 and 20.
- 13.5 The Buyer shall indemnify and hold the Seller harmless from and against all claims made by any third party concerning product liability, to the extent that such liability has been disclaimed by the Seller under the Agreement.

### **14 Recall**

- 14.1 In the event of a recall of the Products instigated by the Seller or by a competent authority, the Buyer shall in consultation with the Seller take all necessary actions that are appropriate in the circumstances. These may include, without limitation, stopping the delivery of the Products and recalling the Products from warehouses, distributors and retailers. The Buyer shall not be allowed to interfere with the recall proceedings, which shall be controlled by the Seller only,

and the Buyer shall not make public any actual or planned recall of the Products, except as provided by applicable law or as specifically stated by the Seller.

## **15 Force Majeure**

- 15.1 The Seller is entitled to suspend the performance of its obligations if such performance is impeded or causes an unreasonable hardship on the Seller due to any extraordinary circumstances and/or any related consequences hereof beyond the reasonable control of the Seller, including war, terrorism, epidemics, pandemics, earthquakes, volcanic eruptions, lightning, storms, hurricanes, cloudbursts, fire, explosions, failure of public services, lack of raw materials or packaging materials, armed conflicts, cyberattacks, shortage of energy, operational interruptions, confiscation, embargoes, currency restrictions, veterinary diseases, any strike, lockout or other form of industrial action, restrictions, interventions or significant legal or political changes laid down by any national or international governmental authorities or the European Union, etc.
- 15.2 Clause 15.1 shall apply to obstacles affecting either the Seller or any sub-suppliers or transport companies chosen by the Seller.
- 15.3 Notwithstanding Clause 15.1 and 15.2, the Parties agree that (i) nothing herein shall excuse or permit any delay or failure to remit any amount payable hereunder on the applicable due date and (ii) financial inability, general liquidity shortage, unwillingness to pay, the Buyer's refusal to take delivery, insolvency, currency fluctuations, currency devaluations or inflation shall never be deemed an act of God or other cause beyond a Party's control.
- 15.4 Notwithstanding any other provisions of the Agreement, each Party is entitled to terminate the Agreement with immediate effect by written notice to the other Party if it is clear from the circumstances that the performance will be or is suspended under Clause 15.1 for more than three (3) months.

## **16 Confidentiality**

- 16.1 A Party shall not, apart from what is required by applicable law or by any court or other authority of competent jurisdiction, make use of, except for the purposes contemplated by the Agreement, disclose to any third party or publish any Confidential Information received from or in respect of the other Party under or in connection with the Agreement.
- 16.2 The Parties shall ensure that their employees also observe this Clause 16.
- 16.3 The restrictions contained in this Clause 16 shall apply at all times during the term of the Agreement and for a period of three (3) years after the expiry or termination thereof. However, if more Agreements are entered into between the Parties, the post-term confidentiality obligation shall not expire before three (3) years after the expiry or termination of the most recent Agreement.

## **17 Compliance**

17.1 The Buyer agrees to act in accordance with the Agreement and in compliance with all laws, regulations, regulatory, statutory, legal and other such requirements.

## **18 Code of Conduct**

18.1 If the Seller provides the Buyer with a copy of the Seller's Code of Conduct, the Buyer will be obliged to comply with the Code of Conduct. Any non-compliance with the Code of Conduct shall be regarded a material breach of the Agreement. See Clause 21.3 with regard to the Seller's right to amend its Code of Conduct.

## **19 Governing Law**

19.1 These Sales and Delivery Terms, the Seller's Code of Conduct and each Agreement shall be governed and construed by and shall be interpreted in accordance with the laws of the Kingdom of Denmark, disregarding the Danish conflict of law rules and without regard to the United Nations Convention of Contracts for the International Sale of Goods (CISG).

## **20 Venue**

- 20.1 Any dispute or claim arising out of or in connection with these Sales and Delivery Terms, the Seller's Code of Conduct or any Agreement, including any question regarding the existence, validity, interpretation, performance or termination thereof, which cannot be settled amicably between the Parties, shall be settled by arbitration in Copenhagen arranged by the Danish Institute of Arbitration in accordance with the rules of arbitration procedure adopted by the Danish Institute of Arbitration and in force at the time when such proceedings are commenced.
- 20.2 Notwithstanding Clause 20.1, if the legal relationship established by these Sales and Delivery Terms or any Agreement is of relevance to an action brought before a court of law or an arbitration tribunal by a third party against the Seller, the Buyer is obliged to join the action as a party upon the Seller's request.
- 20.3 Irrespective of Clause 20.1, the Parties shall be entitled to seek interim remedies (in Danish: "*foreløbigt retsmiddel*"), including injunctive relief, with the courts of law. If permissible under applicable law, the Seller may decide with binding effect to the Buyer that any subsequent justification trial (in Danish: "*justifikationssag*") regarding such remedies shall be settled by arbitration pursuant to this Clause 20. The Seller shall inform the Buyer of its decision and in no event later than five (5) days of the Buyer's request for such information,

## **21 Miscellaneous**

### **21.1 Severability**

21.1.1 If any provision under the Agreement is found to be inconsistent with or void under any applicable law, the validity of the other provisions shall not be affected thereby. In such case, the Parties or the court/arbitration court shall replace the ineffective provision with a provision

of fundamentally the same content and effect, also taking into consideration any amendments to the Agreement, which, however, is legally valid, binding, and enforceable under the said law.

## **21.2 *Assignment of Rights and Obligations***

21.2.1 The Seller is entitled to assign all rights and obligations under the Agreement, including an order, to a third party without the Buyer's consent.

21.2.2 The Buyer is not entitled to assign the Agreement to a third party without the Seller's prior written consent. However, the Buyer is entitled to assign the rights and obligations under the Agreement to third parties with regard to taking delivery of Products as well as ordering and paying for Products. In the event of such assignment, the Buyer shall remain liable to the Seller for compliance with the Agreement.

## **21.3 *Amendments***

21.3.1 The Seller reserves the right to amend these Sales and Delivery Terms and its Code of Conduct. Any amendments will be notified with a notice of fourteen (14) Business Days, unless a shorter notice is required in order to ensure compliance with applicable law. The current version of the Sales and Delivery Terms can always be found on the Seller's webpage: [www.kangamiut.dk](http://www.kangamiut.dk)

## **21.4 *Entire Understanding***

21.4.1 The Agreement shall constitute the entire understanding between the Parties in respect of the subject matter under the Agreement and shall supersede all prior agreements, proposals, the Buyer's general terms and conditions, negotiations and discussions between the Parties relating thereto.

## **21.5 *Notices between the Parties***

21.5.1 Notices to be made under the Agreement shall be provided in writing.

## **21.6 *Waiver***

21.6.1 No waiver by a Party of any breach or non-fulfilment by the other Party of any provision under the Agreement shall be deemed to be a waiver by that Party of any other breach or non-fulfilment by the other Party, whether of a like or different nature, and no delay or omission by a Party in exercising any right or remedy under the Agreement or any applicable law shall affect that right or remedy, or constitute a waiver thereof.

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