

Terms and Conditions of Sale
Effective from 1st April 2018

1 DEFINITIONS AND INTERPRETATION

1.1 In these terms and conditions of sale, the following words will (unless the context otherwise requires) have the following meanings:

"**Seller**" is Bidfresh Ltd and any other trading names that the company trades under.

"**Buyer**" means the company, firm, body or person purchasing the Goods whether directly or indirectly through an agent or factor who is acting for or instructed by or whose actions are ratified by such company, firm, body or person.

"**Conditions**" means the conditions set out below in force from time to time.

"**Contract**" means any contract between the Seller and the Buyer for the sale of any Goods.

"**Delivery Arrangements**" means the instructions solely relating to delivery of the Goods given with an Order as agreed between the parties from time to time.

"**Goods**" means any goods specified in an Order.

"**Order**" means an order for the supply of Goods, together with the Delivery Arrangements either in Writing or by verbal agreement

"**Writing**" means writing on paper, telex, facsimiles, and electronic mail.

1.2 The headings are for reference only and will not affect the interpretation of these Conditions.

1.3 The Seller reserves the right at any time without liability to correct any clerical, typographical or other similar errors or omissions made by its employees.

2 APPLICATION OF CONDITIONS

2.1 These conditions govern the relationship between the Seller and the Buyer. All orders, whether taken by telephone, writing or otherwise, are subject to these Conditions and no other terms, warranties or other contractual terms (other than those expressly stated in these Conditions and those implied by law) endorsed upon, delivered with, referred to or stipulated or contained in any Order or other similar document delivered or sent to the Seller will form part of the Contract.

2.2 Any variation to these Conditions is only effective if one director of the Seller expressly agrees so in writing.

3 ACCEPTANCE OF ORDERS

3.1 Each Order issued by the Buyer will be deemed to be an offer by the Buyer to purchase Goods subject to these Conditions. The Seller reserves the right to accept or refuse any Order at its sole discretion.

3.2 Orders will be deemed to be accepted by the Seller on delivery of the Goods to the Buyer.

3.3 Where an Order is accepted, it is accepted subject to availability of the Goods.

3.4 The Buyer must ensure that the content of its Order is complete and accurate.

3.5 Subject to clause 6 below, any Order which has been accepted by the Seller in accordance with clause 3.2 may only be cancelled, postponed or varied by the Buyer with the prior consent of the Seller and on terms that the Buyer will indemnify the Seller in full against all losses (including but not limited to loss of profit), costs (including but not limited to inventory and other commitments made by the Seller as a result of such purchase order), damages, charges and expenses incurred (directly or indirectly) by the Seller as a result of such cancellation, postponement or variation.

4 PRICE

4.1 Unless otherwise agreed, Goods will be charged by reference to the Seller's price list and according to the quality and packing required at the appropriate price or prices prevailing at the time of delivery.

4.2 Quotations for other products to individual specifications will be given upon request. Any quotation is given on the basis that no contract will come into existence other than in accordance with clause 3.2.

4.3 Prices may be altered by the Seller with or without notice, except where expressly stated otherwise, and all prices exclude any Value Added Tax that might be or become payable in respect thereof.

5 PRODUCT PREPARATION

5.1 All Goods could be sold with a corrective weight. All Goods are prepared from a start weight, preparation is completed free of charge, however waste will only be sent when a Buyer requests due to food safety reasons. A copy of our working guidelines is available on request.

6 PAYMENT

6.1 The Seller may invoice the Buyer for Goods at any time after delivery of the Goods or after any instalment (as appropriate). Payment must be received (in cleared funds) by the Seller within its standard payment terms of 15th of the month following invoice date unless alternative express payment terms have been agreed.

6.2 The Buyer will make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

6.3 Payments may be required before delivery.

6.4 Failure of the Buyer to pay the Seller for Goods within the agreed payment terms may result in deliveries being suspended until full payment is received for all the Goods that have been delivered whether or not the payment terms have expired for all the Goods.

7 DELIVERY AND CLAIMS

7.1 The Goods shall be delivered in accordance with the Delivery Arrangements and this clause 7.

7.2 Delivery shall take place:

- (a) where the Goods are to be delivered by the Seller to the Buyer's premises or other premises as agreed, when the Goods are unloaded at such premises; or
- (b) where the Goods are to be delivered by the Seller to the Buyer's premises or other premises as agreed but at such a time when the Buyer (or any person on behalf of the Buyer) shall not be present to sign for the Goods, when the Goods are left at said premises in accordance with the Buyer's directions; or
- (c) where the Goods are to be collected from the Seller's premises, when the Goods are collected by the Buyer (or a carrier other than the Seller in which case section 32(2) of the Sale of Goods Act 1979 shall not apply) at the Seller's premises or signed for, whichever is the earlier, unless the Goods are to be collected at a specified time and/or date in which case delivery shall be deemed to take place when the Seller notifies the Buyer that the Goods are ready for collection.

7.3 Save in the case of clause 7.2(b) above, on delivery the Buyer or nominated consignee shall provide a full name, job title and signature on the Seller's receipt note.

7.4 Any dates or times for the delivery of the Goods are given in good faith but are estimates. If no time is specified or agreed by the Seller delivery will take place within a reasonable time. Unless otherwise agreed in Writing, time for delivery of the Goods shall not be of the essence.

7.5 Deliveries of the Goods may be partially or totally suspended by the Seller during any period in which it is prevented from manufacturing, delivering or taking delivery of the Goods through any circumstances outside its control. If because of such circumstances the Seller is unable to supply the total value of the Goods, the Seller may allocate its available supply (after satisfaction of its own requirements) among all of its customers, including those not under contract, as the Seller sees fit. Deliveries so suspended shall be cancelled without liability, but the Contract between the parties shall otherwise remain unaffected.

7.6 The Seller may deliver the Goods in instalments. In all cases where the Contract provides for delivery by instalments, or part deliveries, each instalment or part delivery shall be deemed a separate Contract and the cancellation of one instalment or part delivery shall not vitiate or affect the Contract as to other instalments or part deliveries.

7.7 On delivery to the Buyer all Goods should be examined, save in the case of clause 7.2(b) in which case the Seller shall examine the Goods. The Seller will not be liable for any shortages, non-delivery or damage to the Goods (even if caused by the Seller's negligence) unless the same is notified in Writing by the Buyer to the Seller (together with all relevant details) within 24 hours of the actual delivery.

7.8 Subject to notice being provided in accordance with clause 7.6 the Seller will (if it is reasonably satisfied that any Goods have not been delivered as a result of the Seller's fault) (in its sole discretion) either arrange for delivery or replacement of the Goods as soon as reasonably possible or (where the Contract price has been invoiced) refund the invoice price (at the pro rata price) to the Buyer for such Goods.

7.9 If the Seller complies with clause 7.8 it will have no further liability (in contract or tort (including but not limited to negligence) for such shortages or non-delivery or damage. Under no circumstances will the Seller be liable for any consequential or indirect loss or damage however caused.

8 OWNERSHIP AND RISK

8.1 Ownership of the Goods (both legal and equitable) will remain with the Seller until the Seller has received payment (in cleared funds) for the Goods in full.

8.2 Until such payment the Buyer shall (at no cost to the Seller):

- (a) hold those Goods which are separately packaged or identifiable as distinct from other property of the Buyer or any third party on behalf of and in a fiduciary capacity for the Seller; and
- (b) store and maintain such Goods in a satisfactory condition and in such a way as to be identifiable as the property of the Seller and by reference to the batch or invoice number.

8.3 In the event of non-payment by the Buyer by the due date, the Seller or its agents shall be entitled in addition to all other rights (including the right to demand the immediate return of the Goods at no cost to the Seller) to enter upon any land, premises or vehicle where those Goods or part of them may be for the time being and recover possession of them.

8.4 The Seller will be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Seller.

8.5 The risk in the Goods passes to the Buyer upon delivery in accordance with clause 7.

9 PACKING MATERIALS

Unless otherwise agreed in Writing, the Buyer shall be charged extra where it retains packing trays in which the Goods are delivered. The Customer will dispose of all packing in accordance with all regulations (whether statutory or otherwise) relating to the protection of the environment.

10 LIMITATION OF LIABILITY

10.1 Save as expressly stated in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

10.2 Nothing in these Conditions excludes or limits the liability of the Seller for fraudulent misrepresentation or for any death or personal injury caused by the Seller's negligence.

10.3 Subject to clauses 10.1 and 10.2, the Seller will not be liable to the Buyer in contract, tort (including but not limited to negligence) misrepresentation or otherwise for any:

- (a) economic loss of any kind (including but not limited to loss of use, profit, anticipated profit, business, contracts, overhead recovery, machining costs, revenue or anticipated savings);
- (b) any damage to the Buyer's reputation or goodwill;
- (c) any other special, indirect or consequential loss or damage arising out of or in connection with the Contract.

10.4 The provisions of this clause 10 shall survive the termination or expiry (for whatever reason) of this Contract.

11 TERMINATION

11.1 Should the Buyer make default in any payment, be unable to pay its debts as and when they fall due, have a receiver or administrative receiver appointed over its assets or have a winding up petition presented against it, the Seller may, at its option, cancel or withhold all further deliveries and/or terminate the Contract immediately.

11.2 The termination of this Contract (howsoever arising) will be without prejudice to any rights and remedies which may have accrued to either party.

11.3 Any part of these Conditions which implicitly has effect after termination or expiry will continue to be enforceable notwithstanding termination or expiry.