

# FOODLOGICA

## TERMS & CONDITIONS

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### Article 1 - Definitions

In these general terms and conditions the following definitions apply:

**Customer:** any party for which FoodLogica performs or has agreed to perform services, and any party that has given FoodLogica an instruction of another nature;

**FoodLogica:** FoodLogica B.V. and/or its affiliated companies;

**Agreement:** all agreements between FoodLogica and the Customer relating to the purchase of services by the Customer from FoodLogica, and any other instruction given by the Customer to FoodLogica, as well as any act legal or otherwise related to the foregoing;

**Addressee:** any party to whom FoodLogica shall deliver goods under the Agreement;

**Order Specification:** complete information regarding all of the following: the address and time for pick-up, the address of Addressee, the requested time of delivery to Addressee, the total weight of the order, the number of crates to be picked up and delivered, the type of products, instructions as to whether FoodLogica should return the crates to the pick-up address, whether refrigeration is required, and instructions as to any additional services required, as defined in the Agreement; and

**Standing Orders:** orders with identical Order Specifications which recur on a daily or weekly basis for a period of at least one (1) month.

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### Article 2 - Applicability

1. These general terms and conditions shall apply to all offers and quotations of FoodLogica and to the Agreement.
2. FoodLogica is entitled to amend these general terms and conditions and shall inform the Customer thereof in writing.
3. Any general terms and conditions of the Customer are expressly excluded from applicability.
4. If the substance of the Agreement deviates from the substance of these general terms and conditions, the substance of the Agreement shall prevail.

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### Article 3 - Offer; formation of the Agreement

1. Quotations and price offers will always be without obligation and may be subject to cancellation or modification at any time.
2. An Agreement between FoodLogica and the Customer is considered to be concluded if FoodLogica has expressly accepted an order or instruction from the Customer in writing or has begun fulfilling that order or instruction.

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### Article 4 - Fees and payment

1. Agreed prices or fees are exclusive of VAT and other governmental levies.
2. FoodLogica shall adjust agreed prices or fees annually for inflation. FoodLogica will inform the Customer two months prior to adjustment of the agreed prices or fees.

3. All invoices of FoodLogica shall be paid within fourteen (14) days of the invoice date, without any reduction or set-off.
4. In the event of late payment, the Customer will be in default by operation of law and will be required to pay statutory interest (within the meaning of Article 6:119(a) of the Dutch Civil Code) with effect as from the invoice date.
5. The Customer shall pay all actual judicial and extrajudicial costs that FoodLogica incurs as a result of the Customer failing to fulfil its obligations properly and on time, with a minimum of 15% of the amount due.
6. The Customer has no right of suspension of any of its payment obligations.

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### Article 5 - Obligations of the Customer

1. The Customer shall cooperate with FoodLogica and shall ensure the timely supply of any information, which is or may be necessary for the execution of the Agreement. In particular, the Customer shall provide a complete Order Specification.
2. The Customer is responsible for ensuring that any information supplied is accurate, complete and reliable (also if this information has been provided by or through another party). FoodLogica may at all times legitimately rely on the information provided by the Customer.
3. The Customer shall provide the information for each order as stated in Article 5(1) before 16:00 hours on the day before the delivery date by e-mail or using software as stated in the Agreement.
4. The Customer shall package the goods in standard crates measuring [40 x 60 x 23 cm]. The crates may be of varying heights. Each crate shall not exceed [fifteen (15)] kilograms.
5. The Customer shall have the goods ready at the agreed pick-up time. If the Customer is more than fifteen (15) minutes late, FoodLogica shall charge the Customer an additional 15% of the fee on that order. If the Customer is more than one (1) hour late, FoodLogica shall charge an additional penalty fee of EUR 25 per hour per driver.
6. The Customer shall provide at least four (4) weeks' notice to FoodLogica regarding any changes to Standing Orders.

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### Article 6 - Delivery of goods; performance of services

1. Delivery terms and times quoted or agreed shall not be considered to be a final deadline.
2. FoodLogica undertakes to execute the Agreement to the best of its ability, with due observance of the Customer's legitimate interests, but shall not guarantee the achievement of any result that is envisaged.
3. If, for any reason whatsoever, the Addressee fails to accept delivery or timely delivery of goods offered for delivery in accordance with the Agreement, all costs incurred in vain by FoodLogica in connection with the offer and any additional costs of transport, custody and storage will be for the Customer's account. The risk will also pass at the time at which FoodLogica offers the goods for delivery in accordance with the Agreement and the Addressee fails to accept delivery for any reason whatsoever.

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## Article 7 - Right of retention

FoodLogica may retain goods for delivery until the Customer has fully paid all amounts that it is required to pay to FoodLogica by virtue of the Agreement and/or other agreements, including any interest and expenses

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## ARTICLE 8 – LATE DELIVERY

1. In case of a late delivery of more than fifteen minutes but less than one hour, FoodLogica will compensate the Customer by providing a discount of 15% on the price or fee of the order that has been delivered late.
2. In case of a late delivery of more than one hour, FoodLogica shall offer suitable compensation to the Customer.
3. FoodLogica shall not compensate for late delivery if the cause of late delivery is beyond its control (within the meaning of Article 6:75 of the Dutch Civil Code). FoodLogica shall inform the Customer as soon as possible of late delivery and will try to keep the delay as short as possible.
4. FoodLogica shall not compensate for late delivery if this is caused by the Customer.
5. The Customer shall have no right to compensation in case of late pick-ups.

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## Article 9 - Complaints; expiry period

1. The Customer shall cause the Addressee to inspect the goods immediately after delivery and to verify whether the services have been rendered in a satisfactory manner.
2. The Customer shall notify FoodLogica within two (2) days if the Addressee has found the delivered goods to be damaged and this damage has been or could have been visible during inspection upon delivery of the goods. The Customer shall specify the general nature of the damage or loss.
3. Any complaint of the Customer regarding incorrect or incomplete fulfilment of an order that could not have been known at inspection of the goods immediately after delivery, shall be submitted to FoodLogica in writing within eight (8) days of the date on which the goods were or should have been delivered or the services were or should have been rendered. If the complaint is not submitted to FoodLogica within this term, the Customer no longer has claim against FoodLogica regarding incorrect or incomplete fulfilment of an order.
4. The Customer shall include a clear and accurate description of the Complaint. Lodging a complaint shall not relieve the Customer from its payment obligation.

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## Article 10 - Liability for damage

1. FoodLogica shall not be liable for any damage suffered on the part of the Customer or the Addressee, unless the damage results from intent or wilful recklessness exclusively on the part of FoodLogica's executive staff.

2. FoodLogica shall only be liable for loss of or damage to the goods it was obliged to deliver pursuant to orders under the Agreement.
3. The Customer shall report the damage it has incurred to FoodLogica in writing as quickly as possible but within eight (8) days after the damage was caused or became known. Any damage not reported within this term shall not be eligible for compensation. All legal claims of the Customer against FoodLogica will in any event prescribe after one (1) year, to be counted from the date on which the relevant obligation fell due under the order or from the date on which the event occurred that caused the damage (whichever date comes first in time).
4. If FoodLogica considers a complaint to be well founded, it will credit the price or fee paid by the Customer in connection with the supplied services with a maximum of EUR 5 per kilogram. The weight of the goods is the weight of the damaged or not delivered goods as specified in the consignment note.
5. The Customer will indemnify FoodLogica against all claims of third parties on any basis whatsoever in connection with goods delivered by FoodLogica to the Customer or in connection with services rendered by FoodLogica to the Customer, unless and insofar as the Customer demonstrates that the claim of a third party is in no way related to any circumstance that falls within the Customer's scope of risk.
6. In any dispute about delivery, damages or orders, information from FoodLogica will be leading and binding in establishing the facts, including dates, damage content and quantum.

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## Article 11 - Intellectual property

The Agreement does not contain any assignment of any intellectual property rights as part of the delivery of the goods to the Customer or the services rendered to the Customer and the related documents.

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## Article 12 - Confidentiality

1. All information originating from FoodLogica which the Customer can reasonably assume to be confidential may not be disclosed. The Customer shall impose the same obligation on its employees or third parties that it has engaged in the performance of the Agreement.
2. The confidentiality obligation referred to in clause 12.1 does not apply to information, which must be disclosed by the Customer pursuant to the law, any provision or regulation of a body approved by the government, or a binding and final decision of a court or other public authority.

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## Article 13 - Force majeure

In the event of force majeure (clause 6:75 DCC) on the part of either party, the performance of the Agreement shall be fully or partly suspended for as long as the situation of force majeure continues, without either party being liable for payment of any compensation to the other party. If the force majeure situation is reasonably expected to continue for more than three (3) months, or has already lasted for three (3) months, the other party may dissolve the Agreement by registered letter effective immediately and without recourse to the courts, without thereby creating any rights to compensation.

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## Article 14 - Suspension; dissolution

1. Only FoodLogica may, at its option, fully or partly suspend the performance of the Agreement or dissolve the Agreement in full or in part by written notice without recourse to the courts (with immediate effect and without FoodLogica being liable for payment of any compensation) in the event that:
  - the Customer fails to fulfil any of its obligations under the Agreement and/or these general conditions;
  - the Customer applies for or is granted a suspension of payments, or applies for or is declared bankrupt;
  - the Customer is placed under legal guardianship or administration;
  - the Customer's enterprise is sold or discontinued;
  - permits which are required for the performance of the Agreement are revoked; or
  - an attachment is levied on a significant part of the Customer's operating assets.
2. All claims, which FoodLogica may have or come to have against the Customer in the situations mentioned in clause 14.1, shall be immediately due and payable in full.

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## Article 15 - Assignment; outsourcing

1. The Customer may not assign any of its rights and obligations under the Agreement or contract out the performance thereof to third parties without the prior written permission of FoodLogica.
2. FoodLogica is entitled to engage persons who are not associated with it for the purpose of executing the Agreement. FoodLogica is not liable for damage or loss caused by acts or omissions of these other persons engaged by it.

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## Article 16 - Invalidity of one or more provisions

1. The invalidity of any provision of the Agreement and/or these general terms and conditions shall not affect the validity of the other provisions of the Agreement and/or these general conditions.
2. If and to the extent that any provision of the Agreement and/or these general terms and conditions is invalid, or is unacceptable in the given circumstances according to the criteria of reasonableness and fairness, a provision shall apply between the parties, which is acceptable considering all the circumstances.

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## Article 17 - Applicable law and jurisdiction

1. The legal relationship between FoodLogica and the Customer is governed exclusively by Dutch law to the exclusion of the Vienna Sales Convention.
2. Any dispute between FoodLogica and the Customer shall be settled by the competent court of Amsterdam, the Netherlands.

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## Article 18 - Final provision

The English text of these general terms and conditions constitutes the sole authentic text. In the event of any discrepancy between the English text and a translation into a foreign language, the English text shall prevail.