



## **GENERAL CONDITIONS GOLDEN SEABREEZE GMBH & CO. KG**

### **GENERAL SALES CONDITIONS GOLDEN SEABREEZE GMBH & CO. KG**

#### **1. GENERAL**

These conditions apply to all offers by and all orders to Golden Seabreeze GmbH & Co. KG, hereinafter described as „Golden Seabreeze“, for the sales and deliveries by Golden Seabreeze of products (hereinafter: goods), and to all agreements with Golden Seabreeze with respect thereto.

The applicability of these conditions of the other party or customer (hereinafter: customer) of Golden Seabreeze is hereby expressly excluded.

Provisions that deviate from these conditions may be invoked by the customer only if and to the extent that these provisions are accepted by Golden Seabreeze in writing.

#### **2. OFFERS, ORDERS AND AGREEMENTS**

All offers by Golden Seabreeze are non-binding. Subject to prior sale.

Orders and the acceptance of offers by the customer are irrevocable.

Golden Seabreeze is only bound when it has accepted an offer in writing or has begun implementation. Moreover, Golden Seabreeze is only bound as accepted in writing. Verbal commitments or agreements by or with its personnel do not bind Golden Seabreeze, except and insofar as these have been confirmed by Golden Seabreeze in writing.

These conditions apply to both changes to the agreement as well as separate agreements.

#### **3. PRICE**

Prices set by or agreed to with Golden Seabreeze are net, thus exclusive of VAT, among other things, and only apply to delivery ex cold storage or warehouse of unpacked goods

Should Golden Seabreeze provide packing, packaging, loading, transport, unloading, insurance, without having expressly and in writing agreed to a price for this service, it is entitled to charge the customer the actual costs and/or its usual rates therefore.

Prices set by or agreed with Golden Seabreeze are based on the cost price at the time of signing the agreement. In the event of a later increase to the cost price due to government regulations or changes in the exchange rate, for example, Golden Seabreeze is entitled to charge the customer a corresponding price increase.

#### **4. DELIVERY PERIOD AND DELIVERY**

The delivery period starts after the signing of the agreement, and after Golden Seabreeze has received all items, documents and data to be provided by the customer, and after any agreed



advance payment has been received by Golden Seabreeze, or any agreed security for payment has been put at its disposal.

Unless otherwise agreed, goods to be delivered by Golden Seabreeze are deemed to be delivered as soon as they have left the cold storage or warehouse indicated by Golden Seabreeze for the benefit of the customer.

Failure to deliver within the delivery period does not entitle the customer to additional or substitute damages, or to non-fulfillment of any of its own obligations arising from the agreement. The customer is, however, entitled to rescind the agreement by a written declaration, if and insofar as after the above-mentioned failure to deliver, Golden Seabreeze still fails to deliver the agreed goods within a reasonable period as agreed with the customer in writing.

Delivery periods will be extended by the amount of time that the implementation of the agreement is delayed by force majeure. They will also be extended by the time that the customer is delayed in the fulfillment of any obligation than is agreed to or could reasonably be expected by Golden Seabreeze.

Golden Seabreeze has the right to deliver in parts. Each partial delivery will be deemed an independent delivery with respect to the applicability of these conditions.

Lease agreements for hardware supplied by Golden Seabreeze as lessor shall end after the agreed initial lease term or automatically be renewable for 1 year lease after the agreed initial term. Notice of termination of the lease shall be given by lessor and lessee 2 months before the end of each lease term, failing which the lease term shall be deemed to have been renewed for 1 year.

## **5. RISK AND TRANSFER OF TITLE**

Loading, dispatch or transport, unloading and insurance of the goods to be delivered takes place at the risk of the customer, even if these are handled by Golden Seabreeze.

All goods delivered by Golden Seabreeze remain the property of Golden Seabreeze until such time as the customer has paid in full all that is owed to Golden Seabreeze in connection with the underlying agreement and/or earlier or later agreements of the same nature, including damages, costs and interest. The customer has no right of retention with respect to these goods.

Any leased equipment by Golden Seabreeze as lessor shall be for account and risk of lessee. Lessee shall be responsible for proper maintenance, insurance, operational costs. All lease equipment shall be handed back in comparable condition as received. A signed return statement shall be made by Golden Seabreeze upon return of leased equipment, stating the defects requiring repair. Any repairs needed after the lease and return shall be for account of lessee.

Leased equipment shall remain in the ownership of Golden Seabreeze unless otherwise agreed in writing.

## **6. FORCE MAJEURE**

Golden Seabreeze is entitled to invoke force majeure if the implementation of the agreement is, in whole or in part, temporarily or not, prevented or impeded by circumstances, due or not due to third



parties and reasonably out of its control.

In the case of force majeure on the part of Golden Seabreeze, its obligations are suspended. If the force majeure lasts longer than two months, Golden Seabreeze and the customer are both authorized to rescind the non-feasible parts of the agreement by a written declaration, without prejudice to the provision of Article 10.

## **7. WARRANTY, CLAIMS, AND LIABILITY**

If the quality of the goods does not comply with the agreement, the customer must submit a claim in writing no later than 24 hours after physical acceptance of unfrozen chilled goods and within 72 hours after delivery of frozen goods, and 1 week after delivery of hardware, failing which any claim on Golden Seabreeze will lapse.

If the customer submits a claim as mentioned in the previous paragraph, he must give Golden Seabreeze the opportunity to have the goods inspected in order to determine the (allegedly) inferior quality.

Any right to a guarantee lapses if:

- a. The goods have been improperly stored by or on behalf of the customer. Operations and/or (re) processing involving the goods have been performed by or on behalf of the customer.
- b. The customer has failed to fulfill any of its obligations towards Golden Seabreeze arising from the underlying agreement, or has not fulfilled them adequately or on time.

In the case of a legitimate claim submitted in a timely fashion, Golden Seabreeze will either redeliver at no cost, or credit the customer as far as is reasonable in whole or in part for the invoice value of the goods in question, all of this at Golden Seabreeze's option. These conditions are applicable in case of redelivery.

## **8. LIABILITY AND INDEMNIFICATION**

Golden Seabreeze's liability with regard to any defects in goods it delivers is limited to the fulfillment of the guarantee described in the previous article.

Golden Seabreeze is never obliged to pay substitute or additional damages except if and insofar as the damage suffered was inflicted intentionally or by the gross negligence of Golden Seabreeze or its own employees. Golden Seabreeze's liability for loss of profits, consequential or indirect damages is, however, excluded at all times, except in the case of intention on the part of Golden Seabreeze itself.

In all cases in which Golden Seabreeze is obliged to pay damages, these will never be higher than, at its option, either the invoice value of the goods delivered whereby or in connection with which the damage was caused, or, if the damage is covered by an insurance policy of Golden Seabreeze, the amount that is actually paid out by the insurer with respect thereto.

Any claim towards Golden Seabreeze, except those recognized by Golden Seabreeze, lapses after a period of 12 months from the time the claim arose.



Golden Seabreeze's employees or independent contractors brought in by Golden Seabreeze for the implementation of the agreement can, towards the customer, invoke all means of defence afforded by the agreement as if they themselves were party to that agreement.

The customer will indemnify Golden Seabreeze, its employees and independent contractors brought in by Golden Seabreeze for the implementation of the agreement for each claim by third parties in connection with the implementation by Golden Seabreeze of the agreement, insofar as those claims are greater than or different from those to which the customer is entitled from Golden Seabreeze.

In case of malfunction of leased equipment, Golden Seabreeze will at its sole discretion arrange for repair of leased equipment within reasonable time, supply alternative equipment with comparable functionality or end the lease agreement.

## **9. PAYMENT AND SECURITY**

Payment must take place within 30 days after the oldest invoice or shipment date. However Golden Seabreeze is entitled at all times to claim full or partial payment in advance, and/or otherwise to obtain security for payment.

The customer relinquishes any right to set amounts charged by and between parties. Guarantee claims do not suspend the payment obligations of the customer.

If the customer does not pay any amount he owes pursuant to the foregoing, he is in default without notice. As soon as the customer is in default on any payment, all Golden Seabreeze 's remaining claims on the customer are due, and the customer is immediately in default without notice with respect to those claims. As from the day on which the customer is in default, he owes to Golden Seabreeze late interest equal to the legal interest rate for trade transactions on that day increased by four points.

All legal and extra-judicial costs related to the recovery of any claim against the customer will be for the account of the customer. The extra-judicial costs will amount to at least 15 (fifteen) percent of the amount claimed. The legal costs will be exclusively determined by actual costs paid by Golden Seabreeze internally and to its lawyers, external experts or other parties relating to the recovery of any claim or directly to the courts. Customer and Golden Seabreeze explicitly agree not to refer to any arbitrarily calculated sum to determine the legal costs.

Malfunction or damage to leased equipment shall not relinquish lessee from rental payments due. Golden Seabreeze is entitled to collect equipment for which lease payments are overdue. All costs for collection will be for lessee's account. Lease payments for the remainder of the lease term and related costs for equipment collected or returned before the end of the lease become fully payable immediately if the lease is terminated by

- the lessee coming under receivership or declared bankrupt
- lease payments becoming overdue
- refusal by lessee to apply proper maintenance and repair
- equipment being used for different purposes than agreed and deemed suitable by Golden Seabreeze.



unless Golden Seabreeze has terminated the lease in writing for reason of malfunction.

## **10. RESCISSION**

If the customer does not fulfill one or more of its obligations, does not fulfil them on time or adequately, is declared bankrupt, requests (temporary) moratorium, proceeds with the liquidation of its business, or if its assets are attached in whole or in part, Golden Seabreeze has the right to suspend the implementation of the agreement or to rescind the agreement in whole or in part, without prior notice of default, by written declaration, at its option and always reserving any rights to which it is entitled with respect to compensation for costs, damage and interest.

The customer is authorized to rescind only in cases referred to in Articles 4.3 and 6.2 of these conditions, and then only after payment to Golden Seabreeze of all amounts owed to Golden Seabreeze at the time, whether or not due.

## **11. DISPUTES AND APPLICABLE LAW**

All disputes existing between parties will be heard exclusively by the competent Aachen, German court, unless Golden Seabreeze prefers another competent forum.

The agreement is subject to German law.

## **GENERAL PURCHASING CONDITIONS GOLDEN SEABREEZE GmbH & Co. KG**

### **1. DEFINITIONS**

Buyer: Golden Seabreeze GmbH & Co. KG

Supplier/Seller: Party that enters into a purchasing agreement with buyer Products:

Goods and/or services purchased by buyer from supplier.

Delivery: Transfer of ownership of products from supplier to seller

Arrival: Physical arrival of products into buyer's warehouse and becoming available to buyer for inspection.

Agreement: Written agreement governing the purchase and delivery of products.

### **2. APPLICABILITY**

a- These General Purchasing Conditions will apply to all purchases and orders placed by buyer and agreements covering the supply of goods and/or services between buyer and seller. The version current at the time of confirmation of sale/purchase by buyer shall be valid. Upon first request by seller, the current version of the General Purchasing Conditions will be communicated by buyer to seller.

b- Alternative and/or additional conditions, including supplier's general sales conditions, will be valid only if specifically agreed to in writing by buyer.

c- Supplier complies with buyer's Code of Conduct; a current version can be obtained upon request or can be downloaded from the buyer's website.



### **3. VALIDITY AND MODIFICATIONS**

Agreements are only reached if, when and as far as confirmed by buyer in writing. Modifications of specifications, quantities, prices, conditions and delivery shall be accepted only upon written acceptance by buyer. Buyer shall be allowed to change purchased quantities of products up to 24 hours in case of force majeure.

### **4. TRANSFER OF OBLIGATIONS**

Supplier shall sell and deliver product directly to buyer, without transfer of any obligations under the agreement unless specifically agreed to by buyer. Supplier will remain responsible for all actions under the agreement, including any transferred obligations. Buyer has the right to transfer its financial and/or commercial obligations to supplier to third parties unilaterally.

### **5. PAYMENTS**

- a. Unless otherwise specified in writing, buyer shall pay invoices (including applicable and agreed taxes) for delivery of product within 30 days from arrival of products in buyers warehouse.
- b. Buyer has the right to suspend payments if shortcomings in supplied products and/or invoices and/or procedures have been found to exist. General Purchasing Conditions Golden Seabreeze
- c. If any interest is applicable for suspended or delayed payments from buyer to supplier under the agreement, the interest will never be more than the interbank rate for 3-months loans published as '3 months Euribor'.
- d. Buyer has the right to deduct amounts owed by supplier from any payments from buyer to supplier.
- e. Payment by buyer does not bring about any end to rights of buyer, nor does it cancel obligations by supplier under the agreement.

### **6. DELIVERY**

- a. The agreed time of delivery is essential. Upon any delay in time of delivery supplier is in neglect of the agreement.
- b. Supplier shall inform buyer in writing of any delay in delivery as soon as this becomes apparent. This does not cancel any obligations of supplier under the agreement and/or applicable legal conditions.
- c. Upon delay in time of delivery, buyer has the right to cancel the agreement, reject and or send back delivery at the full expense of supplier.
- d. Delivery takes place under the applicable and agreed terms. If no terms have been specifically agreed, delivery shall be deemed to take place according to the current Inco term 'DDP' (Delivered duty



paid).

e. Buyer has the right to extend the delivery time with a maximum of 3 months up to 24 hours prior to loading of products into its final transportation unit.

## **7. INSURANCE AND RISK**

a- transport Unless otherwise specified in writing, seller shall provide for all risks transport insurance covering 110 % of the value of products plus directly related costs with a first class international insurance company, covering all transport from warehouse of seller to warehouse of buyer. Seller shall provide an insurance certificate to buyer prior to arrival of the product in final port of unloading in case of sea transport or warehouse of buyer in case of land transport.

b- rejection Seller shall guarantee passage of product and documentation of the veterinary health controls required for the import of product into the agreed country of destination. In case of rejection, seller agrees to buy back the rejected product at original sales price to buyer, increased with all costs incurred by buyer relating to the rejected shipment on the condition as is/where is upon rejection. In case of rejection, seller shall pay forthwith to buyer the purchase price of the product and all costs related to the rejected shipment. Upon receipt of payment, buyer shall transfer ownership of the rejected parcel to seller. Buyer shall assist seller to arrange a return shipment or any other transport arrangement if so requested by seller.

## **8. QUALITY GUARANTEES**

Seller guarantees the quality of the product, including packaging, documentation and all transport modes to be of first class food grade and to be according to the current quality standards as set by the country of destination for the product and as agreed between the seller and the buyer. Passing veterinary checks upon importation does not in itself qualify as proof of good quality. All product shall be produced from fresh raw material and to be not older than 3 months at the time of shipment, unless specifically agreed upon by buyer. Best before dates shall be 24 months from date of production, unless specifically agreed upon by buyer. Freezing methods shall be suitable for the type of product, and all product shall be properly frozen at -20 degrees Celsius or colder during all handling and transport after freezing.

Upon first request by buyer, seller shall provide all necessary documentation to support the above quality guarantees, including but not restricted to HACCP plan(s), tracing and tracking information covering the product back to catching area and catching vessel, transport vessel, transport container, trucks and cold stores temperature logs etc.

## **9. LEGALITY GUARANTEES**

Seller is aware that the Buyer will reject any IUU (Illegal, Unwanted, Unregulated) product. Seller guarantees the legality of its products and catches of raw materials used, and will monitor it's own supplies and suppliers thereto. Sellerguarantees to submit correct IUU certification if so required by buyer. Failure to provide proper IUU certification will be entirely for account and risk of supplier. Should shipments be hindered for reason of illegal or incorrect certification, supplier will indemnify



buyer for all direct and indirect costs resulting thereof, and provide buyer with bank guarantees to cover all potential costs, upon first demand by buyer, pending final determination of the actual cost

## 10. DOCUMENTATION

Unless otherwise specified in buyers purchase order, seller shall provide for the following documentation, covering each delivery of products for its particular destination:

### For sea shipments :

- a- full set of original b/l showing transport temperature -20 degrees Celsius or colder 2 copy b/l.
- b- original health certificate issued by competent health authorities (if for farmed product, also showing feed for the shipment to be free of pork)
- c- Halal certificate for destinations in Middle East
- d- original I.U.U. catch certificate for EU markets, issued by competent authorities of catching vessel's state (wild caught product only)
- e- original G.S.P. certificate of origin form A
- f- original invoice in 3 fold g- packing list in 3 fold
- h- loading plan for the container(s) showing location of products
- i- lab report covering the shipped products according to FAO standards, showing for each separate item at least the following :
  - Microbiological analysis:
    - plate count below 100.000
    - enterobacteria below 100 General Purchasing Conditions Golden Seabreeze
    - E-coli absent
    - Vibrio Cholerae absent
    - Staphylococcus aureus absent
    - Salmonella absent
    - Lysteria absent
  - Chemical analysis:
    - Histamine below 50 ppm
    - Mercury below 0,5 ppm
    - Cadmium below 0,1 ppm
    - Lead below 0,2 ppm
- j- statement by seller that buyers general purchasing conditions have been received and understood to be governing the shipment of product.

### For shipments by truck:

- a- original CMR
- b- original health certificate issued by competent health authorities (if for farmed product, also showing feed for the shipment to be free of pork)
- c- Halal certificate for destinations in Middle East
- d- original G.S.P. certificate of origin form A
- e- original I.U.U. catch certificate for EU markets, issued by competent authorities of catching vessel's state.
- e- original invoice in 3 fold (wild caught product only)
- f- packing list in 3 fold
- g- lab report covering the shipped products according to FAO standards, showing for each separate item at least the following :



- o Microbiological analysis:
    - plate count below 100.000
    - enterobacteria below 100
    - coliforms below 100
    - E-coli absent
    - Vibrio Cholerae absent
    - Staphylococcus aureus absent Salmonella absent
    - Lysteria absent
  - o Chemical analysis:
    - Histamine below 50 ppm
    - Mercury below 0,5 ppm
    - Cadmium below 0,1 ppm
    - Lead below 0,2 ppm
- h-statement by seller that buyers general purchasing conditions have been received and understood to be governing the shipment of product.

For shipments by air

- a- original AWB
- b- original health certificate issued by competent health authorities (if for farmed product, also showing feed for the shipment to be free of pork)
- c- Halal certificate for destinations in Middle East
- d- original G.S.P. certificate of origin form A
- e- original I.U.U. catch certificate for EU markets, issued by competent authorities of catching vessel's state.
- e- original invoice in 3 fold (wild caught product only)
- f- packing list in 3 fold
- g- lab report covering the shipped products according to FAO standards, showing for each separate item at least the following :
  - o Microbiological analysis:
    - plate count below 100.000
    - enterobacteria below 100
    - coliforms below 100 - E-coli absent
    - Vibrio Cholerae absent
    - Staphylococcus aureus absent
    - Salmonella absent
    - Lysteria absent
  - o Chemical analysis:
    - Histamine below 50 ppm
    - Mercury below 0,5 ppm
    - Cadmium below 0,1 ppm
    - Lead below 0,2 ppm
- h- statement by seller that buyers general purchasing conditions have been received and understood to be governing the shipment of product.

## 11. CONFIDENTIALITY

Seller guarantees confidentiality of all aspects of sales & negotiations to and with buyer. No information and/or documentation shall be given to third parties other than the minimum required for services and requested documentation to and for buyer. Upon termination and/or



fulfilment of contract, seller shall destroy, or hand over to buyer, all material carrying buyers brand and/or trade names. Under no condition shall any packaging or other material carrying buyers brand name be used by seller for other purposes than production and supply of products to buyer. Production methods specific for buyers products remain confidential and the sole property of buyer. Application of buyers production methods for sales or deliveries to others than to buyers makes seller liable for compensation of all commercial damages to buyer.

## **12. INSPECTION OF PRODUCTS, PRODUCTION METHODS AND FACILITIES**

Seller shall monitor product quality, production facilities and production methods under an approved HACCP plan unless otherwise specified. Seller shall keep records of inspections available for buyer upon first request. Upon notification of any quality claim by buyer, seller has the right to have the product surveyed by independent surveyors or inspect the product themselves. Buyer shall notify seller of the location of the product and make it available for inspection. Final quantities delivered will be determined by quantity unloaded from supplying container and/or truck into third party warehouse. If no third party warehouse will be used for unloading, parties agree to use unloading data issued by buyer. Buyer will notify seller within 5 days from unloading of any discrepancies and keep all documentation available for inspection by seller.

## **13. LIABILITY AND INDEMNITY**

Seller shall protect, defend and indemnify buyer and buyer's customers, directors, employees and agents from and against any third party claims and or liabilities for damages, resulting from consumption or use of sellers product unless the claim is due to fault, negligence or intentional acts on behalf of buyer and/or one of its customers. Seller agrees to maintain proper product liability insurance up to minimum 2,5 million euro per occurrence. Upon first request, seller shall provide an insurance certificate to buyer.

## **14. DISPUTES**

Parties agree to settle any disputes amicably. If no settlement can be reached, parties may appoint 1 or 3 arbitrators who shall then cooperate in issuing a binding conclusion. Costs for arbitration shall be born by the parties as per arbitrators conclusions. If no amicable settlement or agreement on arbitration can be reached, parties will put any dispute before the court of Aachen, Germany. All costs & expenses for both parties will be paid by the party loosing the proceedings, whereby actual costs will determine the legal and other expenses as compared to lump sums where possible.

## **15. APPLICABLE LAW**

All purchases by buyer shall be governed by German law, unless specifically agreed otherwise.