

BROWNS



BROWNS FOODSERVICE LTD TERMS OF SALE AND TRADE FOR CATERING SUPPLIES

Introduction

1. These terms apply to the sale of fresh, chilled or frozen meat, poultry, game or other provisions (“the Products”) for delivery to a specific point or points.
2. These terms apply to all orders placed with Browns Foodservice Ltd (“the Company”) by the Customer and are the only terms on which an order is accepted and will take precedence over any terms or conditions stated to be imposed in any written order by the Customer and orders to the Company are subject to the terms hereof.
3. The Company reserves the right to alter any terms of this agreement at any time upon giving not less than seven days notice in writing. No variations of these terms are accepted by the Company unless confirmed in writing by the Company.

Basis of Sale

4. Any quotation given by the Company is an invitation to the Customer to make an order only within 30 days of the quotation date and no order of the Customer placed with the Company in pursuance of a quotation or otherwise shall be binding on the Company unless and until it is accepted over the telephone or by electronic communication by an authorised representative of the Company and/or confirmed in writing by the Company.
5. The Company’s employees or agents are not authorised to make any representations concerning the Products unless confirmed by the Company in writing. In entering into any order, the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
6. Any advice or recommendation given by the Company or its employees or agents to the Customer or its employees or agents as to storage or utilisation of the Products which is not confirmed in writing by the Company is followed or acted upon entirely at the Customer’s own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.
7. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company. All descriptions and illustrations contained in the Company’s advertisements and other sales literature are intended merely to present a general impression of the Products described in them and nothing contained in them shall form part of the Contract.

HEAD OFFICE: 23 SOMERS ROAD, RUGBY, WARWICKSHIRE CV22 7DG

TELEPHONE: 01788 569664/567917 **FACSIMILE:** 01788 537343

email: info@brownsfoodservice.com **website:** www.brownsfoodservice.com

Registered Office: Enterprise House, Eureka Science Park, Ashford, Kent TN25 4AG

A DIVISION OF BROWNS FOODSERVICE LTD REGISTERED IN ENGLAND No. 02743871 VAT REG No. GB 202 9353 88

8. The Customer acknowledges that there are exclusion clauses and indemnities in these terms. The price of the Goods has been calculated on the basis that the liability of the Company has been effectively limited or excluded as appears in these terms. THE CUSTOMER'S ATTENTION IS SPECIFICALLY DRAWN TO PARAGRAPHS. 5, 6, 7, 16 and 27

Price & Weight

9. In consideration of the Products supplied by the Company to the Customer at the Customer's request, the Customer agrees to make payments promptly, without demand, deduction or set-off.
10. All prices quoted are exclusive of VAT unless otherwise stated by inclusive of all other duties, charges, levies, taxes and delivery.
11. Where the Products are on the basis of quantity or weight there shall be a tolerance of 10% unless otherwise agreed.
12. Payment is due to the Company by the 10th of the month following delivery of the Products unless otherwise agreed between the Company and the Customer and the terms of credit from time to time published by the Company, a copy of which the Customer acknowledges to have received, shall apply. Any payment outside the terms of the Company's credit arrangement with the Customer shall be subject to a charge of interest of 4% over the base rate of Barclays Bank Plc on amounts outstanding from the date of invoice to the date of payment.
13. Failure to pay by the due date shall entitle the Company to suspend delivery of any unexecuted orders. The time payment of the price of the Products shall be the essence of the contract.
14. The Company reserves the right at any time in its absolute discretion to demand immediate payment of any account whether due or not, and to take any legal action to recover the debt and costs.
15. The Customer will not be entitled to any discount or retrospective discount should it fail to adhere to the Company's payment terms.

Delivery

16. Every effort will be made to comply with completion/delivery dates requested by the Customer and quoted by the Company but no liability (including for any loss of profit, consequential loss or otherwise) is accepted for or arising out of any failure to do so and time shall not be of the essence.
17. If the Customer is unable or refuses to accept delivery of the Products at the contracted time, the Company reserves the right to charge any costs incurred in storage, additional handling, transport or otherwise.
18. The Company shall request and the Customer shall give a signed acknowledgement of delivery.

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19. The risk in the Products remains with the Company up to the receipt and signature of the Customer for the Products and the Customer warrants that any person signing in receipt of the Products shall be duly authorised so to do.
20. Where the Customer requires in writing, the Company will specifically warrant by way of written undertaking that the Products have been inspected by a competent authority and have been declared fit for human consumption.
21. Notification of any short weight of the Products or damaged Products must be notified to the Company at the time of delivery and any claims in respect of quality within 24 hours of the date of delivery.
22. The Company will apply a £50 delivery charge to the Customer for any orders received after the normal cut-off time or for deliveries made on non-designated days.

Retention of Title

23. Notwithstanding delivery and the passing of insurance risks or the grant of credit, the legal and equitable title in the Products delivered remain with the Company and shall not pass to the Customer until all monies from time to time due to the Company in respect thereof have been paid in full.
24. Until such time as the title in the Products pass to the Customer, the Customer shall hold the products as the Company's fiduciary agent and bailee and keep the Products in proper condition, separately stored from other goods, labelled in such manner as to make the same clearly identifiable as the Company's property and insured for not less than the price payable to the Company,.
25. Notwithstanding the terms of clause 23, the Customer shall be entitled to process or use the Products in the ordinary course of the Customers business but shall account to the Company for such proportionate amount of the proceeds of resale of the Products including proceeds of insurance claims of loss, damage or destruction as is equivalent to the sale price or proportionate amount thereof due to the Company and shall hold such proceeds on trust for the Company and not mix the same with other monies or pay them into any overdrawn Bank account and shall ensure that they are at all times identifiable as the Company's monies and in case of tangible proceeds keep them properly stored protected and insured.
26. Until payment to the Company and without prejudice to any other remedies available the Company or its agents shall be entitled immediately after giving notice of its intention so to do to enter upon the premises of the Customer and repossess any Products of which it has title hereunder and the Customer shall assign to the Company any right or claim of the Company over or against any third party in respect of the Products delivered.

Liability

27. To the fullest extent permitted by law, the Company shall not be liable to the Customer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express provision of these terms, or any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses other claims for consequential compensation whatsoever (and whether caused by the negligence of the Company its employees or agents or otherwise) which arise out of or in connection with

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the supply of the Products or their use or resale by the Customer, except as expressly provided in these terms.

Cancellation

28. The Company shall be entitled to treat an order as cancelled or any part thereof if delivery of the Products is prevented by any matter outside the control of the Company without any liability on the Company whatsoever.
29. The Company reserves the right to request a deposit with any order and cancellation cannot be accepted without prior agreement in writing from the Company and in the event of any such cancellation the right is reserved to apply cancellation charges to reclaim any costs directly or indirectly incurred.

Other

30. The Customer assumes responsibility for ensuring that crates are returned to the driver at the time of delivery. Crates are not permitted to be left with the Customer. If crates are not returned, the Company reserve the right to reclaim from the Customer any costs directly or indirectly incurred.
31. Any notice required or permitted to be given by either party to the other under these terms shall be in writing addressed to the Company's registered office or to the Customer's registered office or principal place of business or such other address as may at the relevant time have been notified by either party pursuant to this provision to the party giving the notice.
32. No waiver by the Company of any breach of these terms by the Customer shall be construed as a waiver of any subsequent breach of the same or any other provision. No delay by the Company in exercising its rights or remedies under these terms shall prevent or restrict the exercise of such rights or remedies at any time.
33. If any provision of these terms is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these terms and the remainder of the provisions in question shall not be affected thereby.
34. The Customer shall not be entitled to assign its rights or transfer any of its rights or obligations under these terms in whole or in part without the prior written consent of the Company.
35. The expiration or termination of any contract made under these terms, howsoever ending, shall be without prejudice to any provisions of these terms which are so have effect after the date of such expiration or termination.
36. All exclusions or limitations of liability contained in these terms shall be given effect to the fullest extent permitted by law.
37. The terms herein shall take effect and be in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

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