



## GENERAL TERMS AND CONDITIONS OF SALE

### ARTICLE 1 – SCOPE

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The purpose of these General Terms and Conditions of sale is to set out the terms under which companies in the LACT'UNION Group (hereinafter '**the Seller**') supply dairy products to professional buyers (hereinafter the '**Buyers**' or **the 'Buyer**') who request them.

The LACT'UNION Group comprises the following companies:

- **LACTINOV ABBEVILLE**, a simplified joint stock company with registered office in ABBEVILLE (80100) at Route de Vauchelles, Zone Industrielle, RCS Amiens 382.586.279,
- **BABYDRINK**, a simplified joint stock company with registered office in ABBEVILLE (80100) at Route de Vauchelles, Zone Industrielle, RCS Amiens 507.449.635,
- **LACTINOV BRAINE**, a simplified joint stock company with registered office in BRAINE (02220) at 9 Rue Claude Reclus – Zone d'activités des Waillons, RCS Soissons 423.169.622,
- **LACT'APPRO**, a simplified joint stock company with registered office in ABBEVILLE (80100) at Route de Vauchelles, Zone Industrielle, RCS Amiens 347 515 876.

The dairy products sold by the Seller are specifically identified and detailed in orders placed by Buyers in accordance with the procedure set out in article 2 below.

The General Terms and Conditions of Sale apply without restriction or reservation to all sales concluded between the Seller and Buyers of the same type, irrespective of any clauses that may appear in a Buyer's documentation, in particular the Buyer's general terms and conditions of purchase.

In accordance with current regulations, these General Terms and Conditions are systematically communicated to any Buyer who requests them, to facilitate the placing of orders with the Seller.

They are also provided to any distributor prior to the conclusion of a single agreement, in accordance with article L 441-3 of the French code of commerce, within the statutory time frame. Any ordering of Products implies acceptance of these General Terms and Conditions of Sale by the Buyer.

The omission to fully or partially enforce any provision of the General Terms and Conditions of Sale by the Seller on a particular occasion cannot be interpreted as a tacit waiver of any future invocation of the provision.

In accordance with current regulations, the Seller reserves the right to waive certain clauses of these General Terms and Conditions of Sale as a result of negotiations conducted with a Buyer and the establishment of special terms and conditions of sale.

Any waiver of these General Terms and Conditions of Sale is subject to a free acceptance in writing drawn up by the Seller.

### ARTICLE 2 – ORDERS AND PRICES

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#### 2-1. Orders

##### **2-1-1. Specification and acceptance of Orders**

Orders must specify Product references, quantities and preferred delivery times, and must be confirmed in writing by a purchase order duly signed by the Seller. Orders may also be confirmed when a Buyer accepts a quote issued by the Seller (on a '*proforma*' for example) (hereinafter '**Orders**').

The Seller has electronic ordering facilities (including acceptance and confirmation) to allow Buyers to place orders quickly and conveniently.

Orders received orally or over the phone must be supported by a written confirmation by email or post reiterating the terms of the order in detail.

Orders are subject to a minimum quantity. The minimum quantity depends on the type of Product and will be notified to Buyers on request.

Orders for less than the minimum quantity will not be accepted unless expressly agreed by the Seller in advance.

The Seller has the right to refuse any Order of a non-standard nature, in particular Orders with an unreasonable delivery time outside what is normally expected, and Orders that significantly exceed the usual quantity without specific justification.

##### **2-1-2. Changes to Orders**

All Orders accepted by the Seller are considered definitive and final, and cannot be changed without the Seller's written consent.

Changes requested by a Buyer will only be considered if notified in writing and at the Seller's discretion, and if they

are within the Seller's capabilities. Any change accepted by the Seller is subject to a special purchase order and possible price adjustment.

For changes involving a higher quantity, the Seller will make his/her best efforts to fulfil the Buyer's Order but with no guarantee of the additional quantities being available or honouring the delivery time. In this event the Buyer will not be entitled to take any action, request compensation or apply any penalty to the Seller in this matter.

For changes involving a lower quantity, the Buyer will compensate the Seller for the costs incurred in manufacturing the Products (raw materials, packaging, etc.) and storing and destroying them, on production of supporting evidence.

## **2-2. Prices**

Prices are determined with reference to the cost of agricultural production and one or more indicators relating to the selling price of food products to consumers. Price lists will be sent to Buyers on request, prior to any Order.

The selling price for a Product as deemed applicable in accordance with the rules outlined above, will be included on the Order. Selling prices will be expressed in euros exclusive of tax, net of all current and future tax and incidental taxes that may apply, which are the exclusive responsibility of the Buyer.

Any personalized service accepted by the Seller will be assessed on a case-by-case basis and invoiced in accordance with a previously-accepted quote.

Special pricing conditions may be applied depending on specifications requested by a Buyer concerning, in particular, methods and timing of delivery or terms and conditions of payment. The seller will then send a special trade proposal to the Buyer.

## **ARTICLE 3 – PAYMENT TERMS**

**3.1.** Prices are payable according to the terms indicated on the invoice sent to Buyers.

The Seller may ask for a down payment when an Order is placed. In this event, the amount of the down payment and terms of payment will be specified on the quote sent by the Seller.

Prices are payable in full within the period indicated on the invoice sent to the Buyer.

**3.2.** It is expressly agreed that any default or delay in payment by the due date that remains unpaid after 8 (eight) days of a formal demand being issued, will automatically incur:

- forfeiture of the payment terms and immediate payment of all other outstanding invoices not yet due;
- forfeiture of any discount, rebate or reduction of any nature and of whatever designation and calculation, which can only be granted as a condition of compliance with the terms of payment;
- entitlement by the Seller to suspend deliveries and cancel or refuse any Orders from the defaulting Buyer, without notice or compensation;
- entitlement by the Seller to demand return of the goods, in accordance with the title retention clause stipulated in article 5 of these Terms and Conditions.

In addition, it is expressly agreed that any default or delay in payment by the due date will also automatically incur a requirement for the Buyer to pay, without notice:

- a penalty calculated at 10 percentage points above the rate of interest applied by the European Central Bank at its most recent refinancing operation, payable from the day after the due date on the invoice. Late payment penalties are payable without a reminder notice;
- a fixed-rate compensation fee of 40 euros for recovery expenses;
- a fixed-rate compensation fee as penalty, amounting to 15% of the sums exclusive of tax, and/or for which payment is due immediately as a result of the payment terms being forfeited;
- any legal costs incurred, without prejudice to any other action the Seller may be entitled to bring against the Buyer in this matter.

**3.3.** Except where there is an express written agreement drawn up in advance by the Seller, and on condition that the mutual claims and liabilities are unequivocal, clearly defined and due for payment, no compensation can be validly applied between any penalties for late delivery of Products or non-compliance of Products ordered by the Buyer on the one hand, and any sums due to the Seller from the Buyer for the purchase of these Products on the other.

## **ARTICLE 4 - DELIVERIES**

### **4.1 Delivery times**

The time or date of delivery will be specified on the Order confirmation issued by the Seller.

Delivery times are not strict deadlines and the Seller cannot be held liable by the Buyer in the event of a delay.

#### **4.2 Terms and conditions for delivery**

The parties expressly agree to apply the Incoterms EXW terms for delivery, also called Ex-Works ABBEVILLE or BRAINE, as applicable. The prices indicated on quotes are therefore understood as relating to the delivery of Products by the Seller, in containers provided by the Seller for the Buyer's use, on the date indicated on the Order confirmation, to Abbeville - Route de Vauchelles - Zone industrielle for LACTINOV companies ABBEVILLE and BABYDRINK, and to BRAINE - 9 Rue Claude Reclus - Zone d'activités des Waillons for LACTIMOV BRAINE, with costs of any nature for removal of the Products from these points to the final destination, and the transfer of risk from this point, being the exclusive responsibility of the Buyer. The Buyer organises and pays for the transport. Any import and export formalities and costs, as well as the taxes and duties related to these two operations, are also the responsibility of the Buyer. In accordance with these delivery terms, the Buyer is solely responsible for the storage conditions of the Products and must ensure that they are never exposed to high temperatures or stored in places or conditions that are likely to impair the quality of them or pose a threat to third parties.

Any other delivery request will be subject to a feasibility study and must be formally approved in writing by the Seller, taking into account in particular the arrangements for covering additional costs.

Any late delivery due to a refusal or a delay in the Buyer's reception services is the Buyer's sole responsibility.

#### **4.3 Apparent faults and missing Products**

Buyers are required to check the apparent condition of Products when they are made available at the factory.

In the absence of any reservations expressly issued by the Buyer upon delivery, the products delivered by the Seller will be considered as compliant with the order in quantity and quality.

Buyers have 24 (twenty-four) hours from taking possession of the Products to make such reservations in writing to the Seller.

Claims cannot be accepted as valid if these formalities are not observed by the Buyer.

The Seller will replace Products as soon as possible at his/her own cost, subject to acceptance of the above-mentioned reservations.

#### **ARTICLE 5 – TRANSFER OF OWNERSHIP – TRANSFER OF RISK**

The Seller reserves the right of ownership over the Products until they are paid for in full, and is entitled to repossess the Products in question. Any down payment paid by the Buyer will be retained by the Seller as a fixed compensation, without prejudice to any other action the Seller may be entitled to bring against the Buyer in respect of this matter.

However, the loss and deterioration risks will be transferred to the Buyer as soon as the Products are made available, under the Incoterm terms mentioned above.

The Buyer therefore undertakes to insure the Products ordered with a suitable policy until the transfer of ownership is complete, to the benefit of the Seller and at his/her own expense, and to provide evidence of this immediately upon request. Failure to do so will entitle the Seller to postpone the delivery until such evidence is produced.

The Buyer is authorised, however, to resale, use or process the Products sold, in which event the Buyer must assign any receivables arising from the resale of the Products or ownership of the article resulting from the processing, to the Seller.

In the event that Products covered by the title retention clause are resold, the Buyer undertakes to record the resale price separately for accounting purposes, and more generally to take all possible measures to establish consistency between the amount received from the purchaser and the outstanding sale price due to the Seller, to ensure the latter receives full settlement of the sale price for the Products delivered under the title retention clause.

#### **ARTICLE 6 – SELLER'S LIABILITIES – GUARANTEE AGAINST HIDDEN DEFECTS**

All Products delivered are covered by a legal guarantee against hidden defects (article 1641 et seq. of the French civil code), authorising Buyers to return them in the event of defects arising from normal use.

The Seller is also responsible for the compliance of Products delivered to Buyers. Communication relating to the Products and warehousing and shelving conditions is the responsibility of the Buyer.

The guarantee forms an integral whole with the Products sold by the Seller.

The guarantee is limited to replacement of the defective or non-compliant Products, excluding any compensation or damages.

All specifications issued by a Buyer are his/her sole responsibility, and the Buyer is solely responsible for selecting the Products ordered and their suitability for his/her requirements.

Buyers must provide evidence of the existence and substance of any defects noted before the transfer of risk. The Seller reserves the right to proceed to an on-site inspection or verification, either directly or through an intermediary agent. In any case, the Seller will only assume liability under the hidden defects guarantee in the circumstances outlined above, where the Buyer has made normal use of the Products and has not exposed them to high temperatures or stored them in conditions likely to impair their properties.

Replacement of the Products does not entail any extension of the guarantee period.

Finally, the guarantee does not apply for Products that have been subject to abnormal use or used in conditions different from what is intended. Equally, the guarantee does not apply in the event of deterioration or accident resulting from impact, dropping, negligence or lack of surveillance or maintenance, and where the Products have been processed.

The cost and risks of returning the Products are the Buyer's responsibility.

Any return accepted by the Seller will be reimbursed with a credit note to the benefit of the Buyer, after quantitative and qualitative verification of the returned Products and original packaging.

Any Product that a Buyer has been obliged to destroy will only be replaced, or a credit note issued, with the Seller's agreement and subject to presentation of a certificate of destruction.

Any claim submitted by a Buyer under the conditions and in the manner outlined in this article will not entitle him/her to suspend payment for the Products concerned.

#### **ARTICLE 7 – INTELLECTUAL PROPERTY**

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**For Products under the Seller's brand:** Where an Order relates to Products sold under a brand belonging to the Seller or which the Seller has the right to use, the Buyer may use the brand in the normal exercise of his/her activity as a reseller of the Products. The Buyer undertakes to observe the graphic charter (especially the colour and form of the logo) and not to modify it. Any other use of the brand is subject to prior written consent from the Seller. Finally, the Buyer undertakes to inform the Seller immediately of any counterfeiting of the brand of which he/she may be aware.

**For Products under a private label:** Note that in accordance with the provisions of article R 412-47 of the French consumer code, products sold under a private label are products with features specified by the company or group of companies which retails them and owns the brand under which they are sold. In this case, the Buyer is free to market the Products under any brand he/she chooses.

The label on Products sold under a private label may include the name and address of the producer if the latter so requests.

Where the Seller produces Products ordered by a Buyer to the Buyer's specifications, the Seller cannot guarantee the Buyer against counterfeiting by a third party, under any circumstances.

#### **ARTICLE 8 - ANALYSIS**

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The Seller guarantees that Products sold to Buyers are compliant with regulations applicable in France. The Products undergo all analyses that are mandatory in France. However, any additional analyses either mandatory under the regulations of a third country or simply requested by the Buyer will be carried out at the expense of the Buyer, who undertakes to bear the cost.

#### **ARTICLE 9 - UNFORESEEABLE CIRCUMSTANCES**

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In accordance with article 1195 of the French civil code, in the event of circumstances unforeseeable at the time a contract is entered into, either Party who declines to accept an overly burdensome execution risk may request renegotiation of the contract.

#### **ARTICLE 10 – SPECIFIC PERFORMANCE**

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Where either Party fails in his/her obligations, the aggrieved Party has the right to demand specific performance of the obligations arising from these General Terms and Conditions. In accordance with the provisions of article 1221 of the French civil code, the beneficiary of the obligation may pursue this specific performance with a single formal demand in writing to the defaulter, sent by registered letter with acknowledgement of receipt, unless this proves impossible or there is a clear disproportion between the cost to the defaulter, in good faith, and the profit to the beneficiary.

## **ARTICLE 11 – FORCE MAJEURE**

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Neither Party will be considered as having failed in his/her contractual obligations where execution of the obligations is delayed, hampered or prevented by force majeure.

Any event beyond the control of the Parties that is unavoidable and unforeseeable and renders execution of an obligation impossible, in particular natural disaster, war, riot, attack, flood, fire, urgent injunction by the public authorities (ban on imports, exports, etc.) or shortage of raw materials, is considered to be a case of force majeure.

Where such a situation occurs, the Party prevented from carrying out his/her obligations must notify the other by registered letter with acknowledgement of receipt within ten (10) working days of the case of force majeure occurring.

The Parties will meet as soon as possible to consider ways of remedying the situation. Execution of the Agreement, and where applicable any outstanding Orders for delivery, will be suspended while the force majeure continues, plus one (1) additional month to allow normal activities to resume.

During the period of suspension, the Parties agree that any costs generated by the situation will be divided equally between them.

## **ARTICLE 12 – TERMINATION CLAUSE**

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In the event of non-compliance by either party with the obligations imposed on them by the sales contract, the contract may be terminated at the option of the injured party.

It is expressly understood that termination for the failure of one party in his/her obligations will take place ipso jure 20 (twenty) days after formal notice to carry out the obligations without effect is sent. The formal notice may be sent by registered letter with acknowledgement of receipt or by extrajudicial document.

The formal notice must include the intention to apply this clause.

It is expressly agreed between the Parties that the defaulter of an obligation to pay under the terms of this agreement is under formal notice solely by dint of the enforceability of the obligation, in accordance with the provisions of article 1344 of the French civil code.

In any event, the injured party may seek damages in court.

## **ARTICLE 13 – DISPUTES**

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Any disagreement relating to the interpretation and execution of sales of Products will be the exclusive jurisdiction of the Commercial Court of Amiens.

## **ARTICLE 14 – APPLICABLE LAW – LANGUAGE OF CONTRACT**

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It is expressly agreed between the Parties that the General Terms and Conditions of Sale and the buying and selling operations that arise from them are subject to French law.

They are written in the French language. Where they are translated into one or more other languages, the original text will prevail in the event of disputes.

## **ARTICLE 15 – EXTENDED PRODUCER RESPONSIBILITY**

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AGEC law provides for each company a unique identifier in order to ensure the compliance with the Extended Producer Responsibility (EPR) obligations.

CITEO unique identifier for Lact'Union Group is :  
4506: FR209851\_01GESN