



Algemene Kokswaren en Snackproducenten Vereniging

GENERAL TERMS AND CONDITIONS OF SALE OF THE AKSV¹

1. DEFINITIONS

Definitions for the purpose of these general terms and conditions (“Terms”):

- Vendor: The company, its successors by universal title, and all partnerships, corporations, and companies affiliated to her or these successors;
- Customer: Every natural person or legal entity who purchases Products from the Vendor, or who enters into an Agreement with the Vendor or with whom the Vendor is negotiating an Agreement;
- Agreement: Every agreement finalized between Vendor and Customer, every amendment or addition thereto, as well as all (legal) actions in preparation or implementation of that agreement;
- Products: All items that are the subject of an Agreement, including foods as intended in the “Warenwet” (Commodities Act), as well as corresponding foods;
- Order: Any instruction from Customer, in any form.

2. APPLICABILITY

2.1 These Terms are an integral part of all Agreements and apply to all (other) legal and other actions between Vendor and Customer.

2.2 The Vendor explicitly rejects the applicability of any general or specific terms and conditions or stipulations of the Customer.

3. OFFERS, CONCLUSION OF AGREEMENTS, AND REPRESENTATIONS AND SPECIFICATIONS OF PRODUCTS

3.1 An offer, tender, or price estimate can only be considered as an invitation for the Customer to place an Order, and is not binding for the Vendor, unless explicitly otherwise agreed upon in writing

3.2 An Agreement can only be concluded if and insofar the Vendor accepts an Order from the Customer, or if the Vendor executes an Order.

3.3 If, at the request of the Customer, the Vendor makes any performance before full agreement has been reached on the price and payment terms for that performance, the Customer will pay the Vendor for this performance in accordance with the rates applicable at the Vendor at that time, subject to the provisions of articles 5 and 6. The performance risk of a phone Order resides with the Customer.

3.4 All representations made by the Vendor of measurements, weights, compositions, and/or other specifications of the Products have been done with care, but the Vendor cannot guarantee the absence of deviations. Samples shown or provided are only indications of the concerned Products. Deviations in weight are possible and are accepted by the Customer. If the Customer demonstrates that the Products delivered deviate otherwise from the representations of the Suppliers or from the samples, to such an extent that the purchase of the Products can no longer be reasonably expected from the Customer, the Customer has the right to dissolve the agreement, but only for the part for which the dissolution is reasonably required, and not after the Customer has notified the Vendor of the default and has granted the Vendor a term of at least 14 days to remedy the cause for (partial) dissolution.

3.5.1 An order on call is an order whereby the moment of delivery depends on a call by the Customer.

3.5.2 If nothing has been agreed concerning the point in time of call, the ultimate delivery date will be the ultimate call date, pursuant to the provisions of article 7.

3.5.3 In the event of an order on call, the Vendor has a maximum of fifteen days to deliver the order, unless otherwise agreed upon. This term starts on the first day following the day on which the Vendor has received a written call. If the point in time at which the Products on call have to be ready, or as of when the products can be called, is indicated in the order or estimate, a call received earlier is considered to have been made at the intended point in time. However and if required, the Vendor can in those cases perform the delivery already prior to the intended point in time.

3.5.4 In the event of an untimely call, the Customer is entitled to an additional call term of nine days, starting on the first day after the day that the Vendor sent the Customer a written notice. Nevertheless and notwithstanding this provision, the Vendor can stipulate that the stated call term will be a deadline. In that case, the Customer will be in default due to the mere lapse of that term.

3.5.5 In the event of an untimely call, the delivery term intended in paragraph 3.5.3 will be extended with fourteen days.

3.5.6 In the event that the Customer also fails to issue a call within the additional term, the Vendor can deliver the Products to the Customer or, if the Customer refuses the delivery, at least store the Products in the Vendor’s warehouse or elsewhere at the expense and risk of the Customer, including the risk of loss of quality. Such

¹ Algemene Kokswaren- en Snackproducenten Vereniging (General Association of Manufacturers of Cooking Supplies and Snacks)

storage constitutes delivery of the Products. Notification of the storage is given in writing and without delay by sending the invoice for that delivery.

4. AMENDMENTS AND ADDITIONS

4.1 Amendments of and additions to any provision in an Agreement and/or the Terms can only be agreed upon in writing. Article 3.3 is applicable accordingly.

4.2 If an amendment and/or addition, as intended in article 4.1, are agreed upon, this amendment or addition will only apply to the concerned Agreement.

5. PRICES

5.1 All prices of the Vendor are expressed in euros and before sales tax or VAT, unless explicitly stated otherwise. Unless explicitly otherwise agreed upon, the costs of packaging and shipping, import and export duties, and excise taxes, as well as all other levies or taxes imposed or levied with respect to the Products and their transport, are at the expense of the Customer.

5.2 Each change in the factors that affect the price and the additional costs of the Vendor mentioned in article 5.1, among which purchase prices, currency rates, import and export duties, and other levies payable at import or export, insurance rates, freight rates, and other levies or taxes, can be passed on by the Vendor to the Customer, insofar this is not forbidden by any imperative legal provision.

6. PAYMENT

6.1 The Customer will pay to the Vendor the amounts invoiced to him, effectively in the currency stated on the invoice and within 21 days after the invoice date. At the Vendor's discretion, all payments will be made at the office of the Vendor or to a postal checking or bank account to be indicated by the Vendor. In the event that the payment is made at the office of the Vendor, payment will be effected in cash or through certified postal or bank checks, unless otherwise agreed upon.

6.2 All amounts charged to the Customer have to be satisfied without discount, withholding, or netting.

6.3 If at any time, the Vendor doubts the creditworthiness of the Customer, the Vendor has the right, before starting or proceeding with his performance, to demand advance payment of the purchase price or issuance of proper collateral from the Customer, in the amount that the Vendor could demand from the Customer under the Agreement, including the customary conditions for reimbursement and conditions of documentary credit, such as irrevocable letters of credit, cash against documents, or cash against delivery.

6.4 In the event that it is agreed upon that payment will be effected and/or when collateral will be provided through documentary credit and/or bank guarantees, the Customer will ensure this will always be done through a Dutch bank with a good name and reputation.

6.5 As of the last day of the payment term, the Customer owes interest, equal to the statutory interest rate prevailing in the Netherlands at that moment, on all amounts that have not been paid on that day, without further notice of default. Every time at the conclusion of a year, the amount on which the interest is calculated is augmented with the interest payable in that year.

6.6 If the Customer has not paid the amount and interest owed after the lapse of an additional payment term established through registered mail, the Customer must indemnify the Vendor for all out-of-court and court costs. The out-of-court costs to be indemnified will be calculated based on the collection rate of the Dutch Bar Association prevailing at the time that the measures for collection were taken.

6.7 Every amount received from the Customer will first serve to satisfy those claims of the Vendor on the Customer that are not subject to a retention of title as intended in article 10.1. Subsequently, every amount received from the Customer will first serve to satisfy any interest and costs payable, as intended in articles 6.5 and 6.6, and then always on the most senior of the outstanding invoices.

7. DELIVERY TERM

7.1 The delivery term stated by the Vendor is based on the circumstances prevailing for the Vendor at the time of conclusion of the Agreement and, insofar dependant on the performance of third parties, on the information provided to the Vendor by those third parties. The Vendor will respect the delivery term as much as possible.

7.2 Delivery terms of three days or less have to be explicitly agreed upon in writing. If no delivery term is stated, a delivery term of eight days applies, without prejudice to the provisions of the previous paragraph.

7.3 The delivery term begins on the date of the written order confirmation of the Vendor, and in its absence, on the day the order is placed and accepted (by phone). If the Vendor requires information or tools from the Customer in order to execute the Agreement, the delivery term begins on the day that all required information or tools are in the possession of the Vendor, but not earlier than the date of the order confirmation.

7.4 In the event that the delivery term is exceeded, the Customer is not entitled to related damages. In that case, the Customer does also not have the right to dissolve or terminate the Agreement, unless the delivery term is exceeded to such an extent that the Customer cannot be reasonably expected to honor the concerned part of the Agreement. In that case, the Customer has the right to dissolve or terminate the part of the Agreement for which this is strictly necessary, on condition that the Customer notifies the Vendor in writing and notwithstanding the right of the Vendor to deliver the concerned Products to the Customer after all within 14 days after receipt of the notice. The provisions of this article are voidable under certain conditions.

7.5 The Vendor has at all times the right to make partial deliveries and issue invoices accordingly.

8. DELIVERY AND RISK

8.1 The delivery of the Products, the provisions concerning the delivery costs, and the transfer of risk are executed according to the conditions customary in trade, such as ex factory, carriage paid, F.O.B., C.I.F., and C.F.R., and are governed in all such cases by the prevailing Incoterms of the International Chamber of Commerce in Paris. In placing the order, the Customer must mention how and, insofar applicable, where the products should be delivered.

8.2 If the terms and conditions referred to in the preceding paragraph have not been agreed upon, the delivery and transfer of risk of the Products and their packaging will always take place when and where the Products are ready for shipping to the Customer. The Vendor will inform the Customer as soon as possible of the abovementioned time and place, and the Customer will reception the Products as soon as possible, yet ultimately within 8 days after notification.

8.3 The Customer ensures that there are no obstacles on the Customer's side to meeting specific agreed-upon delivery terms.

8.4 Should the Customer fail to reception the Products or fail to reception the Products on time, the Customer will be in default without notice being required. In that case, the Vendor has the right to store the Products at the expense and risk of the Customer or to sell the Products to a third party. The Customer remains liable for the purchase price, augmented with the interest and costs (by way of damages), but respectively reduced with the net proceeds of the sale to that third party.

8.5 Costs and damages ensuing from delays on the side of the Vendor are at the expense of the Customer, unless the Vendor has caused the delay.

9. FORCE MAJEURE

9.1 If the Vendor can only partially fulfill his obligations towards the Customer due to force majeure, the Vendor has to fulfill as many obligations as is reasonably feasible.

9.2 If the situation of force majeure has lasted that long that one of the parties cannot reasonably be expected to respect the Agreement, the concerned party has the right to dissolve the Agreement in writing, entirely or partially. In the event of force majeure, the Customer is not entitled to any damages, not even if the Vendor might derive any benefit from the force majeure.

9.3 Force majeure for the Vendor is defined as any circumstance outside the control of the Vendor, which partially or fully impedes the fulfillment of his obligations to the Customer or due to which the Vendor cannot reasonably be expected to fulfill his obligations, regardless of whether that circumstance was foreseeable at the time of conclusion of the Agreement. Among others, such circumstances also include: Strikes and lock-outs, delays or other problems in the production by the Vendor or its suppliers, and/or in the transport ensured by the Vendor or third parties, and/or measures of any regulatory agency, as well as the absence of any permit to be obtained from authorities.

9.4 The Vendor will inform the Customer as soon as possible of a (possible) situation of force majeure.

10. RETENTION OF TITLE

10.1 Notwithstanding the actual delivery, the ownership of the Products will only transfer to the Customer once the Customer has fully satisfied all current or future debts to the Vendor concerning Products delivered or to deliver pursuant to the Agreement, including the purchase price and possible surcharges, interest, taxes, and costs ensuing from these Terms or the Agreement, as well as possible work performed or to perform pursuant to such Agreement.

10.2 Until the ownership of the Products has been transferred to the Customer, the Customer must store the Products separately. Until the moment that the ownership of the Product is transferred, the Customer does not have the right to make the Products available to third parties, grant a lien on the Products to third parties, or encumber the Products in any other fashion on behalf of third parties. The Customer only has the right to sell or deliver the Products, owned by the Vendor, to third parties insofar this is necessary within the context of the normal course of the Customer's business.

10.3 If and as long as the Vendor is the owner of the Products, the Customer will inform the Vendor without delay and in writing if the Products are seized or encumbered in any other way with a claim. Furthermore, the Customer will inform the Vendor, at the Vendor's first request, where the Products, owned by the Vendor, are located.

10.4 In the event of seizure, (temporary) suspension of payments, or bankruptcy, the Customer will immediately inform the process server performing the seizure, the administrator, or the trustee of the (property) rights of the Vendor.

11. INSPECTION AND COMPLAINTS

11.1 The Customer must carefully inspect (have inspected) the Products immediately after arrival at destination or, if earlier, after reception by himself or by a third party appointed by him. Possible complaints of defects in the Products attributable to errors in raw materials, materials, or manufacture, as well as deviations in quantity, weight, composition, or quality between the Products delivered and the related specifications stated on the order

confirmation and/or invoice, have to be communicated in writing to the Vendor ultimately within 4 days after arrival of the Products. Defects, which could not reasonably have been observed within the abovementioned term, have to be communicated in writing to the Vendor within 7 days after their discovery and in any case within 2 months after the arrival of the Products.

11.2 After discovery of any defect, the Customer must immediately cease the manufacture, processing, or any other use of the concerned Products.

11.3 The Customer will provide all cooperation required by the Vendor for the investigation of the complaint, by enabling the Vendor to perform (have) an investigation (performed) on site into the conditions of storage, manufacture, processing, and/or (other) use.

11.4 The Customer has no right to complain regarding Products of which the Vendor cannot verify the complaint.

11.5 The Customer cannot return the Products until the Vendor has agreed with the return. The reasonable costs of return are at the expense of the Vendor, but the Products remain at the Customer's risk.

11.6 The Customer cannot make any claims on the Vendor concerning defects in Products, as long as there are unfulfilled directly related obligations of the Customer towards the Vendor.

11.7 The Vendor is liable if the Customer complains regarding defects in a Product, justly and in accordance with the preceding article paragraphs. However, this liability is limited to the obligations described in 12.3, in function of the nature of the complaint and subject to the other provisions of article 12.

11.8 Defects concerning a distinct lot of Products that is part of a delivery consisting of multiple lots, only give the Customer the right to dissolve the concerned part of the agreement. The Customer can only claim the dissolution of the entire Agreement, if the Customer cannot reasonably be expected to respect the remainder of the Agreement.

12. GUARANTEE

12.1 The Vendor guarantees the Customer that, until the expiration date stated on the packaging, the Products comply with the requirements reasonably imposed on the Products by law and the Customer, on condition that these Products are stored, manufactured, processed, and/or used normally and carefully, and that all related instructions and other rules issued are timely and strictly observed.

12.2 If the Vendor delivers Products obtained from its suppliers to the Customer, the Vendor can never be held to a more extensive guarantee or liability towards the Customer than that to which the Vendor is entitled from its supplier.

12.3 If a complaint was made timely, correctly, and in accordance with the provisions of article 11, and if, in the opinion of the Vendor, it has been sufficiently proven that the Products are not of the agreed quality, the Vendor has the option to redeliver the Products free of charge against the return of the faulty Products or to provide the Customer with a discount on the purchase price, to be determined in mutual consultation. By fulfilling one of the aforementioned options, the Vendor will have fully satisfied his guarantee obligations and will not be liable for any additional damages.

13. LIABILITY AND INDEMNITY

13.1 The Vendor is never liable for any indirect damages incurred by the Customer or third parties, including consequential damages, intangible losses, loss of profits and environmental damages.

13.2 In any case, the liability of the Vendor towards the Customer is limited per event (whereby a series of connected events count as one event) to the contractual amount before VAT of the concerned (partial) delivery.

13.3 The Vendor will not invoke the liability limitations in articles 13.1 and 13.2 if the concerned damages have been caused intentionally or due to the gross negligence of the Vendor or its management.

13.4 Except in the case of gross negligence or intent of the Vendor or its management, the Customer will hold the Vendor harmless against all claims of third parties, for whatever reason, regarding indemnification of damages, costs, or interests related to the Products, respectively ensuing from the use of the Products, or caused by or ensuing from work performed by the Vendor outside its company.

14. OTHER OBLIGATIONS AND RESPONSIBILITIES OF THE CUSTOMER

14.1 The Customer will always make all information required for the work to be performed by the Vendor available in a timely manner and guarantees its accuracy and completeness.

14.2 The Customer will not remove, or render invisible, partially or completely, the markings and/or identification marks located on the Products.

15. DISSOLUTION

15.1 If the Customer fails to properly, or within a stated term, or otherwise, fulfill any obligation for him that might ensue from any Agreement, the Customer is in default and the Vendor has the right, without any notice of default being required:

- To suspend the execution of that Agreement and directly related Agreements until payment has been sufficiently ensured; and/or
- To dissolve, partially or completely, that Agreement and directly related Agreements;

Without prejudice to the other rights of the Vendor under any Agreement with the Customer and also without the Vendor being liable for any damages.

15.2 In the event of a (temporary) suspension of payments, bankruptcy, closing, or liquidation of the company of the Customer, all Agreements with the Customer will automatically be dissolved, unless the Vendor informs the Customer within a reasonable term that the Vendor requires fulfillment of (a part of) the concerned Agreement, in which case the Vendor has the right, without further notice of default:

- To suspend the execution of the concerned Agreement(s) until payment has been sufficiently ensured; and/or
- To suspend all the Vendor's possible obligations towards the Customer;

Without prejudice to the other rights of the Vendor under any Agreement with the Customer and also without the Vendor being liable for any damages.

15.3 In the case that an event occurs as intended in (i) 15.2 or (ii) 15.1, (i) all claims of the Vendor on the Customer and (ii) all such claims ensuing from the concerned Agreement(s), respectively, are immediately payable in full and the Vendor has the right to repossess the concerned Products. In that case, the Vendor and its representative(s) have the right to enter the premises and buildings of the Customer in order to assume possession of the Products. The Customer must take the necessary measures to enable the Vendor to exercise its rights.

15.4 Except in the case of a consumer purchase, the applicability of article 6: 278 of the Dutch Civil Code is explicitly excluded if the Vendor dissolves any Agreement with the Customer or otherwise provides an impulse to nullification as intended in article 6:278, paragraph 2, of the Dutch Civil Code.

16. ASSIGNMENT OF RIGHTS AND OBLIGATIONS

16.1 The Vendor has the right to assign the rights stipulated in any Agreement with the Customer to third parties. In the event that obligations of the Vendor are assigned, the Vendor has to inform the Customer in advance of this assignment and the Customer has the right to dissolve the Agreement going forward from the date of the assignment. The Vendor is not liable for any damages in that case.

16.2 The Customer does not have the right to assign his rights and/or obligations ensuing from an Agreement to any third party without prior written permission from the Vendor.

17. PACKAGING

The Customer must return the packaging to the Vendor without delay. The Customer is not allowed to use the packaging for purposes other than packaging and/or transport of the Products of the Vendor.

18. VENDOR'S EXERCISE OF RIGHTS TO SUSPEND PERFORMANCE, TO DISSOLUTION, OR TO NULLIFICATION

If, based on circumstances known to the Vendor or of which the Vendor should have been aware at that moment, the Vendor reasonably believes to be able to legally exercise a right to suspension, dissolution, and/or nullification, the Vendor is not liable for any damages to the Customer nor, in any case, for payment of the statutory interest, if it would later be ascertained that the Vendor did not legally exercise the intended right(s).

19. APPLICABLE LAW AND JURISDICTION

19.1 These Terms, as well as all Agreements, shall be governed by and construed in accordance with Dutch Law. However, regarding Agreements as intended in article 6: 247, paragraph 2, of the Dutch Civil Code, it is explicitly stipulated that Part 3 of Title 5 of Book 6 of the Dutch Civil Code is inapplicable.

19.2 The applicability of the Vienna Sales Convention 1980 (CISG) is excluded.

These General Terms and Conditions have been filed at the Chamber of Commerce of Haaglanden on 9 January, 2007, with number 40447196.