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GENERAL TERMS AND CONDITIONS

The private company with limited liability FOODPRODUCTS B.V., established in Velp, whose registered office and principal place of business is also located at Florijnweg 13-15, 6883 JN. - Hereinafter referred to as: Foodproducts -

CONTENTS

- ARTICLE 1 APPLICABILITY
- ARTICLE 2 TENDERS/OFFERS/CONSULTATIONS
- ARTICLE 3 AGREEMENT
- ARTICLE 4 PRICES
- ARTICLE 5 PAYMENT SECURITY
- ARTICLE 6 PAYMENT
- ARTICLE 7 RETENTION OF TITLE
- ARTICLE 8 DELIVERY/DELIVERY DATE
- ARTICLE 9 TRANSPORT AND RISK
- ARTICLE 10 FORCE MAJEURE
- ARTICLE 11 COMPLAINTS
- ARTICLE 12 LIABILITY
- ARTICLE 13 APPLICABLE LAW
- ARTICLE 14 DISPUTES

ARTICLE 1. APPLICABILITY

- 1.1 All offers, consultations, agreements and the performance thereof by Foodproducts are exclusively governed by these general terms and conditions. Derogations therefrom must be agreed with Foodproducts in writing.
- 1.2 The other party includes in these conditions: (co) contracting party or client or buyer, every (legal) person who has concluded an agreement with Foodproducts, respectively wishes to conclude, and in addition to the aforementioned, their representative(s), authorised person(s), successor(s) in title and beneficiaries.
- 1.3 The other party is deemed to have tacitly agreed to the exclusive applicability of these conditions by giving any further orders verbally, in writing, by telephone, by email or by fax or in another manner, regardless of whether written confirmation from Foodproducts has been obtained.

ARTICLE 2. TENDERS/OFFERS/CONSULTATIONS

- 2.1 All offers remain valid during the period of time to be indicated by Foodproducts. In the event that no period of time is stated, the tenders of Foodproducts are without obligation.
- 2.2 Consultations or offers are without obligations and are based on the details provided by the other party.
- 2.3 The sending of tenders and/or other documentation does not oblige Foodproducts to delivery or, as the case may be, acceptance of any order.
- 2.4 Foodproducts retains the right to refuse deliveries or orders without explanation.

ARTICLE 3. AGREEMENT

- 3.1 An agreement with Foodproducts first comes into effect after Foodproducts has accepted an order.
- 3.2 The invoice is deemed to reflect the agreement correctly and fully, unless written complaint on the part of the other party is received within eight working days.
- 3.3 If the agreement consists of brokerage activities by Foodproducts during the bringing into effect of one or more agreements between the other party and third parties, this other party will owe a commission to Foodproducts at the time that through its brokerage the agreement comes into effect.
- 3.4 If the work by Foodproducts consists of the work mentioned in article 3.3, then principally the general terms and conditions of the other party will apply vis-a-vis the third parties mentioned, or alternatively the present general terms and conditions as subsidiary. If and insofar as for or on behalf of these third parties work is carried out, then the present general terms and conditions apply in relation to these third parties.
- 3.5 Foodproducts trades products from certified parties which are affiliated with the Global Food Safety Initiative. In addition, there are also commercial activities carried out by Foodproducts with products that do not come from GFSI approved suppliers. For more clarity, this can be checked before any activities are carried out.

ARTICLE 4. PRICES

- 4.1 All prices given by Foodproducts are net, therefore excluding turnover tax owed and other duties imposed by authorities and excluding ancillary costs such as costs of packaging, transport, unloading and insurance, unless agreed otherwise.
- 4.2 Unless stated otherwise all quotes are with the proviso of price changes.
- 4.3 Foodproducts is entitled to increase the agreed prices, without this providing a valid reason for the other party to give notice or to invoke (have invoked) termination of the agreement wholly or in part, if and insofar as the factors determining the cost price of Foodproducts increase after the agreement was concluded. This applies likewise if price changes are the result of foreseeable circumstances, which nevertheless reasonably ought to be borne by the other party.
- 4.4 The cost price increasing factors mentioned in this article comprise, among others (but are not limited thereto) cost increases through changes in exchange rates, salary increases, increase of purchase prices, increase of import duties, turnover tax and excise and an increase of prices by the suppliers of Foodproducts.

ARTICLE 5. PAYMENT SECURITY

- 5.1 Foodproducts is entitled to require from the other party that sufficient security is furnished for the fulfilment of the payment obligation under the agreement, or as the case may be, an advance payment to be determined by Foodproducts is paid before Foodproducts is obliged to fulfil its obligations under the agreement.

ARTICLE 6. PAYMENT

- 6.1 Payment takes place at the discretion of Foodproducts or by telephonic transfer within 21 days from the invoice date or by telephonic advance payment, or net cash at the office of Foodproducts, or at delivery of the matters or at a bank or giro account to be designated by Foodproducts.
- 6.2 Foodproducts retains the right to suspend its obligation under the agreement and to refuse execution of accepted orders if the other party does not fulfil its payment obligation. Such a refusal or suspension will never be deemed to be a termination of the agreement,



IBAN code NL78ABNA00561260265

BIC code bank ABNA NL 2A

K.v.K. 27185970

BTW nr NL810.052.660.B01

unless Foodproducts expressly invokes this. For the other party such a refusal or suspension will never be reason for the suspension of its obligation under the agreement or as the case may be for termination.

6.3 All payments made by the other party to Foodproducts will be applied in deduction from the oldest outstanding invoice of the other party, irrespective of contrary description.

6.4 Reliance on any deduction or setoff or compensation by the other party is never permitted and the other party expressly waives the right thereto.

6.5 Derogating payment agreements are exclusively binding when these have been agreed in writing.

6.6 In the event that another payment method has been agreed to, it applies that the payment must take place no later than 21 days from the date of the invoice concerned.

6.7 Complaints about an independent part of a specific invoice never release the other party from the obligation of payment within the stated payment term with regard to the other items as stated in the invoice.

6.8 The other party is automatically in default on the expiry of the payment term, without demand letter or notice of default.

6.9 When an invoice remains unpaid within the aforesaid payment term wholly or in part, the other party will owe Foodproducts interest to the amount of the statutory interest plus 2% per year over the principal sum.

6.10 In the event that (extra) judicial collection or attempt thereto is required, the other party will, in addition to the principal sum, interest and (attachment) costs, owe collection charges which amount to 15% of the outstanding principal sum, with a minimum of € 300.-- (excluding VAT). The obligation of payment of these costs arises initially upon demand letter being sent to the other party by a third party debt collector.

ARTICLE 7. RETENTION OF TITLE

7.1 Without prejudice to the other provisions in these general terms and conditions all matters delivered by Foodproducts remain at all times the property of Foodproducts, until the time of payment of all amounts owed by the other party to Foodproducts, which fall within the context of Book 3 Section 92 Civil Code, on whatsoever basis and regardless of being due and payable, including interest and costs, and in the event of payment into a current account, until the time of settlement of any balance accruing in favour of Foodproducts.

The other party is not entitled prior to the payment in full or settlement to pledge the matters to third parties or to transfer the ownership thereof other than during the usual operational management, in the course of which the other party undertakes toward Foodproducts to ensure the preservation of the quality of the matters delivered to them. In case of breach of this Foodproducts has the right to take back, or have taken back, all matters delivered by them, without the requirement of any authorisation from the other party or the competent judicial authority, from the place where the matters are located. Furthermore, each claim will be forthwith fully due and payable in that case.

7.2 Repossession in accordance with the provisions of this article does not affect the right of Foodproducts to (full) compensation, pursuant to the rules that apply to an attributable failure in the performance of an obligation.

ARTICLE 8. DELIVERY/DELIVERY DATE

8.1 Unless otherwise agreed, delivery takes place from a location designated by Foodproducts. At the time that the matters leave the location designated by Foodproducts, the risk of the matters transfers to the other party. Dispatch and transport costs are on the account of the other party.

8.2 The other party is obliged to check the delivery or the packaging forthwith at the delivery, for shortfalls, damage and/or other imperfections, or as the case may be carry out this check after notification on the part of Foodproducts that the matters are available to the other party.

8.3 In the event that the other party notices shortfalls, damage and/or other imperfections of the delivered matters, the other party is obliged to report this immediately by telephone to Foodproducts and also to state this on the delivery note, or the transport documents, or to return the delivered matters within 3 hours to Foodproducts, failure to do so means that complaints will no longer be accepted. The administration of Foodproducts is decisive in this context.

8.4 Minor deviations in the delivered matters, such as minor deviations in the weight, are not accepted as grounds for the other party to terminate the agreement and also do not result in any right to compensation.

8.5 Foodproducts is entitled to deliver in parts and also to invoice in parts.

8.6 If the other party does not, not properly or not in time, fulfil any existing obligation toward Foodproducts, or as the case may be if there is doubt if the other party is capable of fulfilling its contractual obligations toward Foodproducts, Foodproducts is entitled, without notice of default or judicial intervention, to suspend the performance of every agreement concluded with the other party, or to require a (further) advance payment, security or additional security, or to terminate (have terminated) the agreement wholly or in part (extrajudicially), all this without Foodproducts being obliged to any compensation and without prejudice to the other rights accruing to them.

8.7 The delivery dates/terms of delivery apply as an estimate and are neither binding nor a final deadline, unless expressly agreed otherwise in writing. Foodproducts undertakes to meet the agreed delivery date as far as is possible.

Exceeding the delivery date through whatsoever cause under no circumstances gives the other party the right to cancel the order, to terminate (have terminated) the agreement (extrajudicially), to demand compensation, or as the case may be non-performance by the other party of one or more obligations ensuing from the agreement.

8.8 If at the entering into the agreement it has been expressly recorded in writing that delivery must take place before or on a specified date, and the delivery term thus forms an essential component of the agreement (final deadline), and this has been recorded in writing, the other party has in the case of exceeding the delivery term exclusively the right to cancel or to terminate (have terminated) the agreement (extrajudicially).

Cancellation or termination of the agreement on the basis of the provisions of this article on no occasion gives the other party the right to any compensation, directly or indirectly, howsoever arisen and on whatsoever basis.

8.9 In the event that after the expiry of the delivery term the matters have not been taken delivery of by the other party, the goods will be stored and available to the other party on the account and risk of the other party. After a period of 2 days Foodproducts is entitled to (private) sale of the matters and any reduction in proceeds as well as the costs will be fully on the account of the other party.

ARTICLE 9. TRANSPORT AND RISK

9.1 If no further instructions are provided by the other party to Foodproducts, the manner of transport, dispatch, packaging, and suchlike are determined by Foodproducts, without Foodproducts carrying any liability for this. Any specific risks of the other party concerning the transport/the dispatch will only be carried out if the other party has stated that it will bear the extra costs thereof.

9.2 Transport of the matters take place on the account and risk of the other party, also if the carrier demands that the consignment notes, roadway bills etc. contain the clause that all transport damage is on the account and risk of the consignor.

9.3 Any goods in transport insurance must be arranged by the other party, unless expressly agreed otherwise in writing.

ARTICLE 10. FORCE MAJEURE

10.1 Force majeure includes: any of the circumstances unforeseeable or beyond the control of the parties, through which performance of the agreement can no longer reasonably be expected.

10.2 In aforesaid context force majeure is also deemed to be:

- (computer) disruption at the company of Foodproducts, or as the case may be hindrances through which the usual performance of the agreement is prevented, becomes costly or onerous;
- strike action, sickness of or accident by staff burdened with the execution of the order;
- hindrance through whatsoever cause also of the suppliers of Foodproducts, from whom Foodproducts purchases the matters;
- war, threat of war, terrorist attacks, riot, natural disasters, fire, transport congestion, governmental measures that affect the execution of the order, as well as any other unforeseen events in the company of Foodproducts or in the companies from which Foodproducts purchases matters, which are related to the order;
- delayed or incorrect delivery through whatsoever cause, of the matters ordered in time and in the correct manner by Foodproducts.

10.3 In the event of force majeure the other party will give Foodproducts the opportunity during one month after the agreed date on which the matters must be delivered, or the agreement must be performed, to fulfil its obligations. If the situation of force majeure continues, Foodproducts has the right to require that the order is changed in such a manner that it does become feasible.

If the latter is not reasonably possible in the opinion of Foodproducts, each party has the right to terminate (have terminated) the agreement (extrajudicially) in writing. The declaration of termination must take place in writing to the other party. In case of termination due to the situation of force majeure described in this subsection, neither of the parties is obliged toward each for any (consequential damage) compensation. However, the other party is obliged to reimburse Foodproducts for the work carried out and costs incurred due to the situation of force majeure.

10.4 Foodproducts has the right to rely on force majeure if the circumstances that cause the force majeure occur after the performance on the part of Foodproducts should have been carried out.

ARTICLE 11. COMPLAINTS

11.1 Complaints about any invoice must be made in writing, provided with a properly substantiated explanation, within 7 days from the invoice date submitted to Foodproducts, failure to do so will cause the right of complaint to lapse.

ARTICLE 12. LIABILITY

12.1 Foodproducts is not liable for the consequences of incorrect details and consultations from (the staff of) Foodproducts or as the case may be errors occurring in leaflets, brochures and/or other advertising material.

12.2 Excluding mandatory legal provisions concerning (product) liability, Foodproducts is not obliged to any compensation of damage, of whatsoever nature, direct or indirect, including loss of profits, damage to movable and immovable property, and injury to persons, of the other party as well as of third parties. In any event Foodproducts is not liable for (consequential) loss, which arose or is caused by the inexpert or otherwise use of the delivery or by the unsuitability thereof for the purpose for which the other party acquired it.

12.3 If it is established in law that Foodproducts, notwithstanding the provisions above, is liable, on whatsoever basis, the liability of Foodproducts is limited at all times to an amount equal to the invoice amount corresponding to the invoice sent by Foodproducts to the other party, or the invoice to be sent relating to the delivered matters or the work/services carried out whereby the liability concerned relates to or from which the liability concerned ensues.

12.4 The limitations specified in subsections 1 up to and including 3 do not apply if the damage is the result of intention or gross negligence on the part of Foodproducts or of superior employees of Foodproducts, insofar as they acted in accordance with the express instructions of Foodproducts. The liability for intention or gross negligence by non-superior employees is expressly excluded by Foodproducts.

12.5 The other party is obliged to indemnify Foodproducts for all claims by third parties, whatsoever named and on whatsoever basis.

12.6 Every claim for compensation or remedy lapses in all events, if the claim is not made known on the day of delivery respectively on the day that the period within which complaints can be made has expired.

ARTICLE 13. APPLICABLE LAW

13.1 The law of the Netherlands exclusively applies to all offers, consultations, work carried out or services rendered by Foodproducts agreements and the performance thereof.

ARTICLE 14. DISPUTES

14.1 All disputes - including disputes concerning the interpretation of the present general terms and conditions - will exclusively be adjudicated by the competent Court in The Hague, unless Foodproducts chooses to apply to the Court which the law designates. The provisions of this article do not apply with regard to the jurisdiction of the Subdistrict Court.

14.2 The Dutch version of the general terms and conditions shall be valid as authentic text of the general terms and conditions and will be the course in case of discrepancy with a translated version of the general terms and conditions.