

# GENERAL CONDITIONS OF PACKCONNECT B.V. RELATING TO PACKCONNECT'S PURCHASES OF PRODUCTS

## 1 General

1.1 The words we, our and us shall designate PackConnect B.V., or one of its affiliates or successors.

1.2 The present Terms and Conditions shall apply to all purchase agreements including the negotiations having preceded them ('Agreements'), whereby we shall purchase products ('Products') from the other party (the 'Seller') to such agreement

1.3 The present Terms and Conditions and all Agreements (for the avoidance of doubt: including the negotiations having preceded them) shall be governed by the laws of the Netherlands. Any legal action in connection with Agreements shall be exclusively brought before the Court of Overijssel-Gelderland (the Netherlands).

## 2 Agreements

2.1 The existence and the content of Agreements shall in the first place be evidenced by our written acceptance or confirmation thereof, as addressed to the Seller. To the extent the wording of such acceptance or confirmation is unambiguous, no other evidence shall be admissible for and in respect of an Agreement's existence and content.

2.2 In the event of (apparent) inconsistencies between a provision set out in an Agreement and any provision or provisions set out in the present General Terms and Conditions, the former shall prevail.

## 3 Prices

3.1 The Seller shall express the price to be paid by us in Euros or in any other currency expressly agreed upon with us.

3.2 Unless expressly otherwise agreed in writing, the prices quoted to us by the Seller shall be deemed to relate to the delivery of the relevant products at the place of our registered office, inclusive of packaging and exclusive of turnover tax (VAT).

## 4 Delivery: place and time

4.1 Unless expressly otherwise agreed in writing, all products purchased by us shall be delivered by the Seller at the address designated by us and in accordance with our reasonable instructions from time to time.

4.2 Agreed times of delivery shall be absolute deadlines.

4.3 All terms used in Agreements with regard to the delivery of products shall be construed and defined in accordance with the Incoterms 2010.

4.4. If the Seller has reason to believe that he will not be able to deliver within the agreed upon delivery period, he shall immediately notify us, without prejudice to the provision of paragraph 4.2 above.

4.5 In the event of a notification by the Seller in accordance with paragraph 4.4 above, we shall be entitled to terminate or set aside the underlying Agreement, in accordance with Article 6:265 of the Dutch Civil Code.

## **5 Packaging**

5.1 Products to be delivered to us shall be packaged properly and in accordance with the legislation as applicable from time to time in the place where we have our registered office or the place of destination and otherwise in accordance with the nature of the products and the use that is normally made of them.

5.2 The Supplier shall indemnify us for the costs which we have to incur in order to clear away, remove or destroy surplus (and commercially worthless) packaging material on account of government regulations applicable at the place of delivery or otherwise.

## **6 Transfer of title**

6.1 All products sold shall unconditionally become our property upon delivery.

6.2 The Seller shall indemnify us for all costs and losses that we may suffer if upon delivery such products are still encumbered with any charge or right, or if a third party were to claim any right to or in respect of such products.

## **7 Inspections in connection with the production of food**

7.1 In case we purchase products intended for human consumption, we shall at all times during normal working hours and on working days be entitled to visit the places where such products are manufactured or stored by the Seller, or where the same are stored or manufactured upon the Seller's instructions or for his benefit.

7.2 The Seller is obligated to inform us at our first request where the products of the type purchased by us are manufactured or stored.

7.3 The Seller is obligated to allow us, at our first request, to inspect the HACCP protocols applied to the products by him, on his behalf, or for his benefit and to inform us about the application thereof to products sold and supplied to us.

7.4 Without prejudice to our rights and remedies under the laws applicable to any Agreement, the Seller shall be obligated to comply with our instructions for the products to be handled during storage or manufacturing or to instruct third parties to do so.

## **8 Product specifications**

8.1 With due observance of their intended use and without prejudice to any specifications as contractually agreed upon between the Parties, all products to be supplied to us shall comply with all regulations emanating from central or local bodies of government applying to such products at the place where we have our registered office or, if delivery is to be made at another place, with such government regulations as shall apply in the place of delivery.

8.2 The Seller shall hold us harmless against any and all costs or damages, incurred or to be incurred, arisen or to arise as a result of any non-compliance with the rule of paragraph 8.1 above. Such costs and damages shall include – without limitation – any and all costs relating to a recall of products, irrespective of whether such a recall was effectuated upon an order for that purpose by the relevant authorities in our place of business or by ourselves at our discretion.

8.3 We shall at all times be entitled to alter the relevant product specifications.

8.4 Alterations of the product specifications shall not give the Seller the right to increase the purchase price, unless the Seller had notified us in writing within eight (8) days of receipt of the altered product specifications that those specifications inevitably lead to higher costs of production, stating the reasons for such increase of costs.

8.5 After receipt of a notification as referred to in the preceding paragraph, we shall have the option either (i) to accept the increased price as proposed by the Seller, or (ii) to set aside the Agreement concerned, without incurring any liability to the Seller as a result thereof.

## **9 Payment**

9.1 Unless expressly otherwise agreed upon in writing, we shall pay all of the Seller's invoices by bank transfer into a bank account designated by the Seller, within a term of payment of 30 days.

9.2 If the Supplier wishes us to make payment in another manner, and provided such alternative way of payment shall have been approved by us in writing, payment shall be effected at the risk of the Supplier.

9.3 Unless expressly agreed upon otherwise in writing, we shall have the right to defer our payments until after we have been able to inspect the products to which such payments refer.

## **10 Quality**

10.1 Unless expressly agreed otherwise in writing and without prejudice to the provision of paragraph 8.2 of the present Terms and Conditions, the Seller warrants that all products delivered to us shall comply with specifications laid down in the relevant Agreement.

10.2 In the event of an Agreement for the sale and purchase of foodstuff, we shall examine the quality of the products supplied under that Agreement within seventy-two (72) hours after delivery.

10.3 If upon examination, the products should prove not to comply with the applicable contractual or legal specifications, we shall notify the Seller thereof in writing by fax or by e-mail within five (5) working days, stating our objections.

10.4 In the event referred to in paragraph 10.3 above, we shall – without prejudice to any of our remedies to which we are entitled by law or by contract - entitled to suspend payment of any and all amounts outstanding to the Seller until such time as (i) the cause or causes of the non-conformity as per paragraph 10.3 above shall have been eliminated or (ii) the matter concerning the complaint referred to in paragraph 10.3 has been otherwise resolved in a manner to our satisfaction.

10.5 The Seller having received a notification as referred to in paragraph 10.3 above, shall allow us to instruct an expert of our choice to examine the products in or outside the Seller's premises at the Seller's expense within five (5) working days of receipt of our notification referred to in the said paragraph.

## **11 Intellectual property rights**

11.1 The Seller warrants that the products do not in any way infringe any intellectual property right of third parties, neither in the country in which such products are produced, nor in the country in which the Seller has its registered office, nor at the place of delivery.

11.2 The Seller shall hold us harmless from and against all claims arising from any breach of the provisions of the preceding paragraph.

11.3 All plates, ozalid prints, index cards, reproduction materials, aids, and packaging which we ordered to be produced are and shall remain our property. The Seller is obliged to make these available to us at our first request.

## **12 Transfer of rights and obligations**

12.1 The Seller shall not assign any rights or transfer any obligation arising or resulting from any Agreement to a third party, unless such assignment or transfer shall be approved by us in writing.

12.2 Any assignment or transfer as per paragraph 12.1 above without our prior approval in writing shall be deemed non-existent and to have no effect between the Buyer and ourselves.

## **13 Product liability**

The Seller shall fully indemnify us for all costs and losses that may result from any legal action on grounds of product liability brought against us in connection with products delivered to us by the Seller.

## **14 Confidentiality**

14.1 All information concerning our company that we have not made public in any manner and that the Seller has obtained in the performance of any Agreement is confidential and may not be disclosed to third parties by the Seller.

14.2 The Seller who breaches the provisions of the preceding paragraph shall be liable for the loss that we may suffer as a result thereof.