

# GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

of the private limited company Tony's Delight EU (hereinafter referred to as the: SUPPLIER) in Katwijk, Katwijkerbroek 32, filed with the Chamber of Commerce with registration number: 80788157

## Article 1 - General

- 1.1 These General Terms and Conditions (hereinafter referred to as: Terms and Conditions) apply to all offers, orders and/or agreements between the SUPPLIER and the CUSTOMERS, for the sale and delivery of products and/or the provision of services and the execution thereof. Deviations from or changes to these Terms and Conditions must be confirmed in writing by the SUPPLIER and apply only to the offer/order agreement concerned.
- 1.2 "CUSTOMER" means any physical person or legal entity to whom deliveries of products and/or services are carried out by the SUPPLIER, including its representatives, agents, legal acquirers and heirs.
- 1.3 Any general terms and conditions applied by the CUSTOMER shall not be binding for the SUPPLIER, unless the SUPPLIER agrees to this in writing.
- 1.4 If the SUPPLIER has agreed in writing to the applicability of one or more deviating conditions, the other conditions herein remain in full force.

## Article 2 - Agreements and amendments

- 2.1 An order placed by the CUSTOMER shall be irrevocably considered as an offer by SUPPLIER.
- 2.2 The SUPPLIER shall only be committed to an order placed by the CUSTOMER with the SUPPLIER if and as soon as this order is confirmed in writing by SUPPLIER within three (3) working days after receipt of the order for delivery, or if the SUPPLIER has commenced execution of that order. The SUPPLIER expressly reserves the right to further specify the delivery date with the aforementioned confirmation.
- 2.3 Changes required by the CUSTOMER after placing an order in the execution thereof must be communicated by the CUSTOMER to the SUPPLIER in a timely manner, in writing. In the case of orders and/or changes to the execution thereof given verbally or by telephone, the CUSTOMER will bear the risk with regard to the non-execution or the incorrect execution thereof.
- 2.4 Changes in an order placed by the CUSTOMER, of whatever nature, which entail higher costs than those which could be calculated in the original offer provided by SUPPLIER, shall be charged to the CUSTOMER. If such changes result in a reduction in costs, the CUSTOMER cannot derive any right from this with regard to a reduction of the purchase price. However, the

SUPPLIER, at its sole discretion, may decide that these changes will result in a lower purchase price.

- 2.5 Changes which are made may result in the delivery time indicated by the SUPPLIER before the change being exceeded. This cannot be invoked to the detriment of the SUPPLIER.
- 2.6 Orders, order confirmations or other correspondence by email and/or signed fax will be accepted by the parties as legally binding correspondence.

### **Article 3 - Offers and quotations**

- 3.1 All offers from the SUPPLIER are without obligation, unless expressly stated otherwise in the offer.
- 3.2 Descriptions and prices in the offer are given under reservation and are merely approximate. The CUSTOMER cannot derive any rights from any errors in an offer.
- 3.3 The offers are given by the SUPPLIER based on the data and specifications provided by the CUSTOMER. Offers are based on production and delivery within normal periods and under normal circumstances.
- 3.4 The SUPPLIER is entitled to change the agreed price if changed market prices and/or price increases by SUPPLIERS or other developments such as changes in raw materials, materials and labour costs, government measures, exchange rates, taxes, duties, levies etc. give rise thereto. The SUPPLIER shall inform the CUSTOMER of any price increase, as soon as possible, in writing. If the price increase occurs within three (3) months after entering into an agreement and it amounts to more than ten (10) % of the original price, the CUSTOMER is entitled, within ten (10) days after the date of sending the written notice referred to in the previous sentence, to invoke the dissolution of the agreement, in the absence of which, the CUSTOMER is considered to agree to the price increase.

### **Article 4 – Delivery**

- 4.1 Without prejudice to Article 2.2, the delivery date will be jointly determined by the SUPPLIER and the CUSTOMER. If the SUPPLIER specifies a delivery period, this shall only apply as an approximation and not as a guarantee.
- 4.2 The SUPPLIER shall not be in default by the mere exceeding of the delivery period. If a delay occurs, for whatever reason, the delivery time shall be extended for the duration of that delay.
- 4.3 Unless otherwise agreed in writing, for example, in the order confirmation from the SUPPLIER and notwithstanding the provisions of Article 6 of these Terms and Conditions, products shall be delivered to CUSTOMER, in the legal sense, from the moment that they are ready for shipment or transport from the SUPPLIER and the CUSTOMER has been informed of this in writing (Ex-works, INCOTERM 200).

- 4.4 The transport of the products is at the CUSTOMER's risk and expense, unless otherwise agreed in writing. The CUSTOMER is obliged to receive the products on the announced day. In the case of non-compliance with this obligation, the SUPPLIER shall store the products in its warehouse or elsewhere. The costs associated with such storage shall be borne by the CUSTOMER.
- 4.5 The SUPPLIER is entitled to deliver products in parts. Any partial delivery, including the delivery of products from a composite order, may be invoiced separately. In such a case, payment must be made in accordance with the provisions of Article 5 of these Terms and Conditions.

## **Article 5 - Payment**

- 5.1 Payment by the CUSTOMER must be made to SUPPLIER within twenty-one (21) days of the invoice date, unless otherwise agreed in writing and confirmed in the order confirmation referred to in Article 2.2.
- 5.2. THE CUSTOMER hereby waives its rights to set-off and suspension.
- 5.3 THE SUPPLIER shall ensure timely invoicing. Partial invoicing is possible, at any time, unless this is excluded in writing.
- 5.4 In the case that the term of twenty-one (21) days referred to in Article 5.1 of these Terms and Conditions is exceeded, the CUSTOMER shall be liable to pay interest of two (2) % monthly on (the still outstanding part of) the amount invoiced by the SUPPLIER from the day that the payment term has been exceeded until the time of the full payment of the amount invoiced. The SUPPLIER shall then be entitled to demand immediate payment of all unpaid invoices and to suspend further deliveries until the entire amount invoiced has been paid, or if an adequate guarantee has been provided for this.
- 5.5 All judicial and extrajudicial collection costs which the SUPPLIER incurs as a result of the nonfulfillment of its payment obligations by the CUSTOMER are at the CUSTOMER's expense and are calculated in accordance with the rate of the Netherlands Bar Association.
- 5.6 Payments made by the CUSTOMER always serve first to settle all costs owed and interest paid and then to settle the oldest due and payable invoice. This applies even if the CUSTOMER states that the payment relates to a later invoice.
- 5.7 All goods that are sold by the SUPPLIER is rightfully owned by the SUPPLIER until the CUSTOMER has paid the full amount which was agreed upon.

## **Article 6 - Retention of title**

- 6.1 All goods which have been delivered and are still to be delivered remain the exclusive property of SUPPLIER until all claims that SUPPLIER has or shall obtain from the CUSTOMER, including in any case the claims referred to in Section 3:92, paragraph 2 of the Dutch Civil Code, have been paid in full.

- 6.2 As long as the ownership of the items has not been transferred to the CUSTOMER, the latter may not pledge the goods or grant any other right to third parties, except within the normal course of its business. On the first request of the SUPPLIER, the CUSTOMER undertakes to cooperate with the establishment of a right of pledge on the goods which the CUSTOMER shall obtain or shall receive from the CUSTOMER on account of the delivery of goods to its CUSTOMERS.
- 6.3 The CUSTOMER is obliged to store the goods which have been delivered subject to retention of title with due care and as the recognisable property of the SUPPLIER.
- 6.4 The SUPPLIER is entitled to take back the goods which have been delivered under retention of title and that are still present at the buyer's premises if the buyer is in default with the fulfilment of its payment obligations or is experiencing payment difficulties or is at risk of experiencing payment difficulties. The CUSTOMER shall grant the SUPPLIER free access at all times to its sites and/or buildings for inspection of the goods and/or for the exercise of the SUPPLIER's rights.
- 6.5 The aforementioned provisions included under 6.1 at 6.5 are without prejudice to the other rights vested in the SUPPLIER.

#### **Article 7 - The CUSTOMER's Obligations**

- 7.1. The CUSTOMER shall ensure that SUPPLIER has timely access to all the data and relevant specifications required for the execution of the agreement which are applicable to the agreement concerned.
- 7.2 If the commencement or progress of the execution of the agreement is delayed by factors which can be attributed to CUSTOMER, the losses and costs arising from this for the SUPPLIER shall be charged to the CUSTOMER.

#### **Article 8 - Engaging third parties**

- 8.1 The SUPPLIER is entitled to engage third parties in the execution of an agreement on behalf of and for the account of the CUSTOMER. If, in the SUPPLIER's opinion, there is reason to do so or reason to do so arises from the agreement.
- 8.2 The SUPPLIER guarantees the quality of the products and services of the third parties engaged by the SUPPLIER.

#### **Article 9 - Notification of defect**

- 9.1. After receipt of supplied products, the CUSTOMER is obliged to examine thoroughly whether the products comply with the agreement. If, in the CUSTOMER's opinion the delivered products do not comply with the agreement, the CUSTOMER must object, in writing, within ten (10) days

after receipt of the products, with a reasoned statement of objection (in the case of perishable goods, a period of twenty-four (24) hours applies).

If the grounds for objection could not reasonably have been discovered within this period, a period of ten (10) days applies from the moment that this ground could reasonably have been discovered (in the case of perishable goods, a period of twenty-four (24) hours) applies. Notwithstanding the aforementioned, under no circumstances shall the SUPPLIER accept objections that are made after a period of one (1) month following the delivery of the products by the SUPPLIER.

- 9.2 If, with due observance of the provisions of Article 11.1, the objection is considered to be well founded by the SUPPLIER, the SUPPLIER is only obliged to repair or replace the (parts of) the products to which the objection relates free of charge or to remunerate the CUSTOMER for them; this is at the SUPPLIER's discretion.

### **Article 10 - Return of delivered products**

- 10.1 Products sent by the SUPPLIER to the CUSTOMER may only be returned to the SUPPLIER after written permission from the SUPPLIER and under conditions set by the SUPPLIER.
- 10.2 The costs of returning the products sent by the SUPPLIER to the CUSTOMER shall be borne by the CUSTOMER with the exception of the costs of returning products for which the SUPPLIER has established that they have defects and/or faults covered by the guarantee, or for which the SUPPLIER is liable.

### **Article 11 - Guarantee**

- 11.1 The SUPPLIER provides a guarantee for a period of one month after delivery for all products which are delivered by the SUPPLIER. Defects covered by the guarantee will be remedied by the SUPPLIER by replacement of the defective product (or the relevant part thereof) or by crediting the purchase price of the product in question; this is at the SUPPLIER's discretion.
- 11.2 The SUPPLIER shall not be obliged to perform any guarantee obligation, if at the time that the CUSTOMER invokes the guarantee the CUSTOMER has not entirely fulfilled any obligation with respect to the SUPPLIER or has not fulfilled any obligation in a timely manner.
- 11.3 Any guarantee will lapse if the CUSTOMER itself has performed changes or repairs with regard to the products, or if the products are used for a purpose other than usual business purposes or have been treated or maintained in a careless or ill-considered manner.

### **Article 12 - Liability**

- 12.1 The SUPPLIER's liability is limited to compliance with the guarantee obligations described in Article 11 of these Terms and Conditions. Any further or other liability for incorrect fulfilment or

other shortcoming of SUPPLIER or for damage to the CUSTOMER or third parties, for whatever reason (except in case of intent or gross negligence), is explicitly excluded.

- 12.2 The CUSTOMER is obliged to indemnify and to compensate the SUPPLIER for all claims from third parties engaged by the CUSTOMER for damage compensation from the SUPPLIER in respect to the execution of the agreement, unless there is intent or gross negligence on the part of the SUPPLIER. Furthermore, the CUSTOMER is obliged to indemnify and compensate the SUPPLIER for all claims of third parties engaged by the CUSTOMER which are related to or arise from the CUSTOMER's use of the products supplied or services provided by the SUPPLIER.
- 12.3 Any assigned employees of the SUPPLIER may invoke the provisions of this Article, as if they were party to the agreement between the SUPPLIER and the CUSTOMER.

### **Article 13 - Intellectual and Industrial property rights**

- 13.1 The SUPPLIER reserves all intellectual and industrial property rights with respect to offers made by it, as well as with respect to the drawings, software, descriptions, models, technical drawings, etc. made or supplied by it, as well as with respect to the information underlying all the aforementioned.
- 13.2 The CUSTOMER shall ensure that the items referred to in Article 13.1 shall not be copied, disclosed, saved or used in a manner other than as required for the execution of the agreement, with the written consent of the SUPPLIER.
- 13.3 Any signs, logos, labels, etc. which may or may not be protected by intellectual or industrial property rights, that are contained in or on the products delivered by the SUPPLIER, may only be changed or removed from the products, be imitated, or be used for other products by the CUSTOMER with the consent of the SUPPLIER.

### **Article 14 - Provision of guarantee**

- 14.1 If, there is reason for the SUPPLIER to suspect that the CUSTOMER will not be able to fulfil its obligations under the agreement, the CUSTOMER is obliged to provide a sufficient guarantee, on the first request of SUPPLIER, for the total fulfilment of its obligations with regard to the work which has been performed or agreements which are still to be performed, in whole or in part, by the SUPPLIER, in a manner to be indicated by the SUPPLIER.

### **Article 15 - Suspension, dissolution, force majeure**

- 15.1 If the CUSTOMER fails in any way in the fulfilment of any obligation with respect to the SUPPLIER, as well as in case of a request for suspension of payment, obtained (provisional) suspension of payment for bankruptcy application, declaration; or claim, bankruptcy, liquidation or suspension of (part of) the enterprise of the other party, the SUPPLIER, without prejudice to the other rights to which it is entitled and without any obligation to pay damage compensation,

is entitled, without notice of default or judicial intervention: to suspend the execution of the agreement until payment of everything which the CUSTOMER owes to the SUPPLIER is sufficiently secured: and/or to suspend all of its own possible payment obligations; and/or to dissolve, in whole or in part, any agreement with the CUSTOMER; all the aforementioned without prejudice to CUSTOMER's obligation to pay for products already delivered and/or services provided and without prejudice to the SUPPLIER's other rights, including those for damage compensation.

- 15.2 In the case of hinderance preventing the execution of the agreement on the part of the SUPPLIER as a result of force majeure, the SUPPLIER shall be entitled to suspend execution of the agreement without judicial intervention or to dissolve the agreement, in whole or in part, without any damage compensation being required.
- 15.3 Force Majeure exists in the case of any circumstance independent of the will of the SUPPLIER, as a result of which fulfilment of the agreement will be permanently or temporarily prevented, as well as insofar as this does not include war, risk of war, civil war, revolt, strike, fire and any other disruption in the business of SUPPLIER or its SUPPLIERS. Force majeure also applies if a SUPPLIER, from whom SUPPLIER acquires products with regard to the execution of the agreement with the CUSTOMER, remains in default with a temporary and/or proper delivery.

#### **Article 16 - Transfer of rights and obligations**

- 16.1 The Customer may not transfer its rights and/or obligations arising from any agreement with SUPPLIER to third parties or allow the provision by third parties of security for claims, without the prior written consent of the SUPPLIER.

#### **Article 17 - Applicable law, competent court**

- 17.1 These terms and conditions and all legal relationships between the SUPPLIER and the CUSTOMER are governed by Dutch Law.
- 17.2 Insofar as the law does not mandatorily force otherwise, in the first instance, only the district court in The Hague will be competent to hear disputes which may arise in connection with (the execution of) any agreement between the SUPPLIER and the CUSTOMER as well as disputes concerning (any provision from) these Terms and Conditions, or for obtaining temporary provisions.

#### **Article 18 - The Dutch text prevails**

- 18.1 In the case of a conflict between a translation and the Dutch version of these General Terms and Conditions, the Dutch version prevails.

**Article 19 - Filing**

19.1 These Terms and Conditions have been filed with the Chamber of Commerce in The Hague with number: 80788157.