

GENERAL CONDITIONS OF SALE **SMINK FOOD B.V. AMERSFOORT**

Article 1: Applicability of the general conditions

1. These general conditions of sale apply to all circumstances under which Smink Food BV, with its registered office in Amersfoort - hereafter referred to as: “Smink Food” -, enters into agreements with its customers - hereafter referred to as: “the purchaser” – regardless of the nature of the service to be provided by Smink Food, and to the statements, including tenders and requests for tenders, that the parties make within this framework. The applicability of any general conditions of the other party is specifically excluded between the parties.
2. The statements contained in these general conditions have no effect on the entitlement of Smink Food to implement rights it has that are assigned by law or convention but are not specified here.
3. These general conditions can be invoked by any person engaged by Smink Food within the framework of implementing the agreement.
4. Smink Food has the right to change these conditions at any time.

Article 2: Arriving at an agreement

1. Unless otherwise stated, all tenders made by Smink Food are without obligation. Smink Food has the right to retract a tender without obligation, within three working days of receipt of the acceptance.
2. The agreement will come into effect as soon as Smink Food has received the acceptance of the offer. The acceptance must show that the purchaser agrees with the applicable statements in these general conditions and that the purchaser, insofar as it is applicable, renounces any applicable statements in their own general conditions.
3. If conditions or changes that relate to the tender are introduced in the acceptance, then the agreement, contrary to the provisions of the previous clause, will only come into effect once Smink Food has informed the purchaser that it accepts these amendments.
4. If the purchaser, in instances of an order confirmation, does not inform Smink Food of receipt of the order confirmation in writing within 48 hours at the latest, that he does not accept the order and/or these general conditions, the order and these general conditions will be considered to have been accepted.

5. The (prospective) purchaser takes the risk that the data may be conveyed incorrectly if this is done verbally.

6. Every agreement between Smink Food and the purchaser is entered into under the suspensory condition that the purchaser, at the moment that Smink Food changes over to supply, is, in its evaluation, sufficiently creditworthy to fulfil his financial obligations to Smink Food that arise from the agreement, unless the purchaser has already fulfilled his financial obligations or has guaranteed payment in a way that is deemed sufficient in the opinion of Smink Food.

Article 3: Prices

1. All prices given in tenders or agreements exclude turnover tax (VAT). All prices apply to FCA (Free Carrier) delivery in accordance with the I.C.C. Incoterms applicable at the time of the transaction (currently those from 2000), unless otherwise is specified by Smink Food in the order confirmation. If circumstances arise on the side of Smink Food that they cannot influence, such as unforeseen increases in the price of materials, raw materials, consumables, parts, this being understood to include increases due to changing foreign exchange rates, customs and import duties, increased energy prices and cargo and transport costs, insurance premiums, wage and salary increases, social security contributions, turnover tax (VAT), government measures etc. that cause price increases 3 months or more after the date of order confirmation, Smink Foods will be entitled to increase the agreed prices and/or delivery costs accordingly.

2. Extra costs caused by changes in the order after order confirmation will be charged to the purchaser. In this case the delivery time may be changed.

Article 4: The substance of the agreement

1. If Smink Food provides the purchaser with documentation, illustrations, samples or models, then this is done only to give an indication and the goods do not have to conform to these unless and insofar as the parties have expressly agreed to the contrary.

2. The goods to be delivered comply with the agreement if they meet the specifications that Smink Food has agreed with the purchaser. If no specifications have been agreed, the goods to be delivered should comply with the usual norms in the trade that apply to the goods in question; this is always the case if the goods comply with the applicable statutory quality requirements in the country of production at the moment that the agreement is entered into. Smink Food is entitled to supply goods that originate from a different country if they are qualitatively the same or better than the agreed quality.

3. Weight loss caused by cooling or freezing will not be considered to be a shortcoming if the weight loss is no more than one (1) per cent. Unless otherwise agreed, weight loss can only be

established by the purchaser with an official weighing slip that proves that the delivery was weighed on a reliable, public weighbridge upon receipt or immediately afterwards.

Article 5: Delivery

1. Unless the contrary has been expressly agreed, delivery will be FCA (Free Carrier) at the agreed place for hand-over. Therefore, Smink Food is only liable for the export costs up to the carrier and the purchaser is liable for all other costs including customs duties, taxes, levies and transport costs.

2. The purchaser is obliged, in respect of Smink Food, to take immediate receipt of the goods sold as soon as they are delivered to him. If the purchaser does not accept receipt of the goods they will be considered to have been delivered at the moment that Smink Food makes them available and from that moment on the purchaser will be liable for any expenses and risk. In this case Smink Food is entitled to charge for storage costs in accordance with the rates charged by its company or on site, from the time that the goods are made available. Furthermore, in such a case Smink Food is also entitled to invoice the purchaser.

3. Agreed delivery times – including when specific deadlines or specific times are agreed – are considered to be approximate and are not strict, unless the contrary has been expressly agreed. Consequently, late delivery by Smink Food can never provide a valid reason for the purchaser to terminate the agreement with Smink Food, unless it's a case of an expressly agreed delivery time and this delivery time is exceeded by more than 30%. In addition, once this extended period has expired the purchaser must first give Smink Food written notice of default, whereupon Smink Food will have a period of at least 14 days in which to comply, before they can be considered to be in default in this matter.

4. Smink Food is entitled to hand over the goods to be supplied in parts.

Article 6: Retention of title and pledge

1. All deliveries are subject to retention of title. By virtue of the agreement Smink Food retains the title to goods that have been or will be handed over to the purchaser until:

- a. the price of all the goods, as well as any interest and costs that are due, have been paid in full and,
- b. all claims relating to work that Smink Food has carried out, or will carry out, in relation to the agreement in question have been settled, and
- c. the claims have been settled that Smink Food has made against the purchaser due to failure to fulfil the obligations intended for this.

2. As long as ownership of the goods delivered has not been transferred to the purchaser, the purchaser may not pledge the goods or grant any rights to them whatsoever to third parties

and the purchaser is obliged to notify Smink Food of any events that damage or could damage Smink Food's interests as owner of the goods .

3. The purchaser will store the goods that are subject to retention of title and/or give them identifying marks.

4. If Smink Food wishes to reclaim the goods the purchaser will provide complete cooperation and grant Smink Food access to his storage depot at all times.

5. Smink Food is not obliged to give the purchaser any indemnity of his liability as holder of the goods. On the other hand, the purchaser indemnifies Smink Food from third party claims against him that may be proven valid in connection with the retention of title.

6. The purchaser is obliged to take out ongoing comprehensive and third party insurance on the goods for the duration of the retention of title. Because of this the purchaser grants Smink Food an irrevocable mandate to receive payments on his behalf based on the insured comprehensive risk.

7. The parties agree that for the benefit of Smink Food a right of pledge is established as security of claims that Smink Food has against the purchaser for whatever reason, on moveable, non-registered goods that Smink Food has gained possession of from the purchaser. The right of pledge also applies regarding sufficiently determinable future claims that Smink Food may acquire on the purchaser. The right of pledge will come into effect without any further formalities when Smink Foods gains possession of the goods in question.

8. If any third party professes to have rights on or relating to goods that come under retention of title or goods upon which right of pledge has been established as referred to in the previous clause, the purchaser is obliged to inform the third party of the rights of Smink Food and to inform Smink Food immediately.

9. If a third party has in its possession goods from the purchaser that come under retention of title, then the purchaser, if he fails in his duties towards Smink Food, is obliged to inform Smink Food of the third party's name and address if required, and Smink Food is entitled to inform the third party that it must henceforth retain the goods for Smink Food.

Article 8: Inspection and complaints

1. If the purchaser collects the goods purchased or has them collected, he is obliged to have them inspected regarding quantity and external condition, at the agreed place of collection.

2. The goods purchased must be fully inspected by the purchaser within 48 hours of delivery and if this is not done the agreement will be cancelled. If however, delivery is made subject to the CIF, CFR, CIP or CPT Incoterm conditions, the purchaser must first fully inspect the goods purchased within 48 hours of their arrival at the agreed place of destination.

3. If after inspection the purchaser is of the opinion that the goods purchased do not comply with the agreement, he must inform Smink Food of this in writing, giving reasons, within 48 hours of the expiry of the period referred to in clause 2. In addition, the purchaser is obliged to inform Smink Food of the complaint as soon as possible by fax or e-mail and in any event within 24 hours of the expiry of the period referred to in clause 2. The purchaser is obliged to cooperate with Smink Food so that it can inspect the goods that are the subject of the complaint, or have them inspected, at any time Smink Food may wish. The party decided against will be liable for the costs of this. In the event of a complaint being made, Smink Food is also entitled to require the purchaser to have an inspection report drawn up immediately by an independent expert and also that the purchaser returns the goods purchased immediately, in which case the purchaser may retain a representative sample. The party decided against will be liable for the costs of the above.

4. Prior permission must be given by Smink Food if the purchaser wishes to return goods to Smink Food. Unless otherwise agreed the goods will be transported at the purchaser's risk.

5. Refer to the provisions of art. 4, clause 3 regarding proof of weight loss due to cooling or freezing.

6. The burden of proof that the faults, that are the subject of the complaint, were already present at the moment of the transfer of risk is always on the purchaser.

7. Smink Foods is not required to deal with complaints that are lodged after the periods mentioned in this article and they will not result in the company being liable. If Smink Food does take up such complaints then, unless otherwise agreed, its efforts will be regarded as being done out of consideration without acceptance of any liability.

Article 8: Liability

1. Only if the purchaser has complied with the requirements set out in the previous article will Smink Food, with due regard for what is stated in these conditions, be capable of being taken to court during a period not exceeding three months after the date of delivery, due to an attributable failure. In addition, it is always the case that the purchaser must first serve Smink Food with notice of default in writing, whereupon Smink Food will have a period of at least one month in which to comply before Smink Food can be considered to be in default in this matter.

2. Smink Food's liability is limited to repairing defective goods free of charge or replacing those goods or parts thereof, this being at the exclusive discretion of Smink Food.

3. Smink Food is not liable to the purchaser for damage, of whatever nature, including all direct and indirect damage such as consequential damage, trading loss, damage caused by delays (other than statutory interest), damage due to depreciation, loss of enjoyment, loss of profits or previous losses, damage relating to the cost of replacement transport or rent and

lease costs, damage to third parties or their goods, cargo damage and personal or immaterial damage, that was caused to the purchaser and/or third parties during the implementation of the agreement by Smink Food or others who were carrying out work in this context at the request of, or in cooperation with, Smink Food, unless it is a case of gross negligence on the part of Smink Food and/or its management subordinates.

4. If, and insofar as, Smink Food does have any liability of whatever nature, this liability is always limited to the amount that is paid out in such a case by the public liability insurance, and insofar as the damage is not compensated by the insurer, to the amount of the purchase price excluding turnover tax (VAT).

5. In this article attributable failure is understood to include unlawful actions.

6. The purchaser indemnifies Smink Food from all third party claims, unless Smink Food is liable according to this article.

Article 9: Non-attributable failure (force majeure)

1. Force majeure is understood to include circumstances that hinder fulfilment of the obligation and are not attributable to Smink Food. The following are included if, and insofar as, these circumstances make fulfilment impossible or unreasonably difficult: strikes by and/or illness to Smink Food's employees, strikes by customs officers or other third parties involved in the agreement, default and/or force majeure and/or unlawful actions on the part of Smink Food's suppliers, carriers or other third parties that are involved in the agreement, traffic congestion, natural disasters, war or mobilisation, measures by any authority that impede compliance, fire and other accidents and situations in its business, insofar as the consequences of these make the situation such that the implementation, or further implementation, of the agreement cannot reasonably be expected.

2. Smink Food is also entitled to invoke force majeure if the circumstances that hinder compliance, or further compliance, arise after Smink Food should have fulfilled its obligations.

3. Smink Food's obligations will be suspended under force majeure. If the period of force majeure in which it is impossible for Smink Food to comply with its obligations lasts longer than three months, then both parties will be entitled to terminate the agreement without there being any liability to pay compensation.

4. If, when the circumstances of force majeure begin, Smink Food has already partly met its obligations or can only partly meet its obligations, Smink Food will be entitled to make a separate invoice for that part that has been, or can be, carried out and the purchaser will be obliged to pay this invoice as if it related to a separate contract.

Article 10: Termination, payment liability, suspension and security

1. In the event of the purchaser having attributable failings, Smink Food has the right to terminate the agreement in question and also has the right to terminate or suspend the implementation of other agreements that already exist between the purchaser and Smink Food that have not been completed at that time, by giving written notice of termination. In these circumstances Smink Food also has the right to demand settlement of all outstanding debts by the purchaser in one payment and/or to only fulfil coming deliveries on condition of advance payment.

2. During the implementation of the agreement Smink Food is entitled to require security and/or additional security if it receives indications that the purchaser's creditworthiness has fallen to such a level that it is reasonable to doubt whether the purchaser will be able to properly comply with his obligations. This is the case in any event when the purchaser fails to meet one of his payment obligations despite being given notice of default.

3. Without prejudice to the provisions of this article, Smink Food is authorized, without giving notice of default or recourse to the courts and without prejudice to the rights to which it is entitled, to terminate the agreement either partly or in its entirety or to suspend it with immediate effect, if the purchaser dies, requests suspension of payments or presents a petition for bankruptcy or if his bankruptcy is, or will be applied for or if it has been pronounced. In such cases all claims that Smink Food has on the purchaser are immediately payable in full without Smink Food being liable to pay any compensation and/or being bound to any guarantee. In all instances where the purchaser has knowledge of facts and/or circumstances that give him good grounds to fear that he will be unable to comply with his obligations to Smink Food, he is obliged to inform Smink Food of this immediately.

Article 11: Payment

1. Unless the contrary is agreed Smink Food is always entitled to require advance payment for deliveries.

2. Payment should be made within the periods that Smink Food and the purchaser, in particular, have agreed, and that are given by Smink Food on the order confirmation. If such an agreement is not entered into, payment should be made within fourteen days of the date of invoice. Payment should be made by transfer of funds to a bank or giro account specified by Smink Food.

3. Unless otherwise agreed the purchaser can never have rights to setoff or postponement. If Smink Food sends the purchaser a specification of what he owes Smink Food and what Smink Food owes him then the specification should also be regarded as a setoff declaration.

4. If the purchaser fails to pay within the period specified in clause 2, Smink Food will be entitled, without further notice of default and without prejudice to its other rights, to charge

the purchaser the statutory commercial interest as referred to in article 6:119a of the Civil Code, plus 2%, from the due date to the day when full settlement is made. Furthermore, Smink Food is entitled to regard the agreement as being terminated without legal intervention. In that case the purchaser will be liable for damages that Smink Food has incurred, consisting among other things of loss of profits and other costs such as those mentioned in clause 5. At the end of each year the sum on which the interest is being calculated will be increased by adding the interest due for that year.

5. All reasonable legal and other expenses and collection costs, including the process costs and the costs of legal counsel and third parties that they may engage, that Smink Food incurs due to the failure by the purchaser to comply with his payment obligations, will be charged to the purchaser. In any event the purchaser will be liable to pay a 15% surcharge on the outstanding amount with a minimum of € 500,- being due.

6. Failure to pay or to pay on time has the legal consequence of making all Smink Food's claims immediately payable.

7. All payments made by the purchaser are, in the first instance, used to settle all interest and costs due and secondly for invoices that have been due and outstanding the longest, even if the purchaser states that the payment relates to a later invoice.

Article 12: Applicable law and the court which has jurisdiction

1. Dutch law applies to all agreements entered into by Smink Food with the exception of, if it should apply otherwise, the convention concerning the law that applies to contractual obligations, entered into in Rome, 19 June, 1980 and the United Nations Convention concerning contracts on the international sale of goods relating to moveable goods, finalised in Vienna, 11 April, 1980, as well as the national implementation laws based on it.

2. All disputes that arise between Smink Food and the purchaser to which these general conditions apply, will be decided, unless mandatory law prevents this, by the court which has jurisdiction within the jurisdiction of the District Court where the registered office of Smink Food is located, without prejudice to the right of Smink Food to institute legal proceedings against the purchaser before an otherwise competent court.