

## ***General Terms and Conditions of Sales and Deliveries of de Smaakspecialist***

### **Article 1. GENERAL, SCOPE OF APPLICATION**

1. All offers made by de Smaakspecialist acting also as Teamzes.nl B.V., all agreements concluded with de Smaakspecialist acting also as Teamzes.nl B.V. regarding sale and delivery by de Smaakspecialist acting also as Teamzes.nl B.V. as well as the performance of same are exclusively governed by these general terms and conditions.
2. The applicability of the general terms and conditions used by the customer, regardless of their designation is hereby explicitly excluded.
3. In these general terms and conditions, "customer" shall refer to the wholesaler, the retailer, the food and beverages company or any other contracting party of de Smaakspecialist acting also as Teamzes.nl B.V.
4. Deviations from the general terms and conditions laid down below may only be agreed on in writing and shall only apply after the express written confirmation of same to the customer by the competent representative of de Smaakspecialist acting also as Teamzes.nl B.V. according to the Articles of Association.
5. The English text of the general terms of sales and delivery of de Smaakspecialist acting also as Teamzes.nl B.V. is always decisive.
6. In these terms and conditions the following terms shall have the meaning herein assigned to them:
  - product: goods as well as services, such as maintenance, advice and inspection;
  - in writing by document signed by the parties or by letter, fax, electronic mail or by any other technical means agreed by the parties;
  - De Smaakspecialist: means de Smaakspecialist acting also as Teamzes.nl B.V.

### **Article 2: OFFERS**

1. Unless agreed otherwise in writing, all offers de Smaakspecialist has made to the customer are free of obligation and valid for a period of 14 days after the date of dispatch to the customer, but until the day de Smaakspecialist receives the acceptance of same, they may be revoked by de Smaakspecialist at any time.
2. De Smaakspecialist shall at all times be entitled to change the specifications indicated in the offers.
3. De Smaakspecialist reserves the right to determine the minimum quantities of all goods to be delivered by it.
4. Unless indicated otherwise, the circumstances anticipated before the order and performance of the order during normal working hours for de Smaakspecialist were assumed in preparing the offer.
5. All documents and the information contained in these, whatever the nature, pertaining to offers made by de Smaakspecialist such as price lists, drawings, brochures and other details are as accurate as possible, but shall only bind de Smaakspecialist in the event that de Smaakspecialist has explicitly guaranteed same in the offer.
6. The documents pertaining to this as referred to in paragraph 5 are and remain de Smaakspecialist 's property and may not without its written consent be given to (passed onto) third parties, or made available for inspection, copied or reproduced in any way whatsoever.

### **Article 3: CONCLUSION OF AGREEMENTS**

1. An agreement with de Smaakspecialist shall only be concluded if de Smaakspecialist has confirmed same in writing by means of an order confirmation.
2. Written confirmations as referred to in paragraph 1 of this article as well as all statements of intent referred to in these general terms and conditions, of any nature whatsoever, may only be made with legal force by a competent representative of de Smaakspecialist according to the Articles of Association.
3. The substance of the agreement between the parties shall be determined exclusively by the statements made regarding the agreement in the order confirmation and in these terms and conditions.
4. As regards agreements, deliveries and orders which are not covered by a written order or order confirmation by de Smaakspecialist, the invoice or delivery receipt sent by de Smaakspecialist is also regarded as an order confirmation, which is also deemed to reflect the agreement correct and fully.

5. The circumstance that de Smaakspecialist makes deliveries to the customer and/or has made deliveries to the customer previously does not entitle the customer to any future deliveries by de Smaakspecialist. Hence, this does not establish a permanent relationship, save in the event of an explicit written agreement to the contrary. De Smaakspecialist is not obliged to give a reason for the refusal to make any deliveries to the customer in the future.

#### **Article 4: PRICES**

1. Unless indicated otherwise in writing, the prices mentioned in de Smaakspecialist's offer or its order confirmation are:

- based on the price-determining factors and current prices prevailing at the time the offer or order confirmation was prepared;
- exclusive of costs (processing of returned goods) packaging/deposits;
- exclusive of VAT;
- exclusive of import and export duties;
- expressed in Euros;
- exclusive of any other payments, which de Smaakspecialist or the customer must make, regardless of the reason.

2. The goods to be delivered directly by de Smaakspecialist to the customer are subject to the prices set in de Smaakspecialist price current at the time of delivery for the relevant category of customers or as specifically agreed in writing with the relevant customer.

3. In case of a change of prices (charged by suppliers of de Smaakspecialist) and/or change of (other) price determining factors, such as rates of exchange, wages, taxes, import and export duties, expenses, freight and the like after an offer of de Smaakspecialist or an order of the customer, De Smaakspecialist shall at all times be entitled to change the prices accordingly with due observance of the mandatory provisions applying to the matter, regardless of whether de Smaakspecialist could have foreseen the change at the time of the offer or the order, as the case may be. De Smaakspecialist shall inform the customer of said changes when de Smaakspecialist has become aware of the changes.

4. The changes in the price referred to in the previous paragraph do not entitle the customer to annul or rescind the agreement in any way.

5. De Smaakspecialist will bring an increase in price as soon as possible specified to the notice of the contracting party. The payment of a possible extra charge on account of this article shall take place at the same time as the payment of the capital sum respectively the last term of the capital sum, nevertheless at the latest within the same terms as counts of the capital sum, calculated from the moment the contracting party is notified by de Smaakspecialist.

#### **Article 5: PAYMENT**

1. The payment of the invoices forwarded by de Smaakspecialist to the customer must have been received by de Smaakspecialist before the goods can be picked up at the warehouse in Waalwijk, as de Smaakspecialist works EX-works. Unless agreed otherwise in writing, payment must be made by means of deposit or transfer into a bank or giro account designated by de Smaakspecialist, in Euros and inclusive of VAT. The value dates indicated on the bank/giro statements of de Smaakspecialist shall be decisive in determining the date of payment.

2. All – actual – (extra-) judicial costs incurred by de Smaakspecialist caused by or in connection with the incorrect or late compliance with the obligations by the customer shall be borne by the customer.

#### **Article 6: TITLE RESERVATION AND TRANSFER OF TITLE**

1. The title to all goods to be delivered by de Smaakspecialist to the customer or delivered already continues to reside with de Smaakspecialist until the customer has met all its obligations vis-à-vis de Smaakspecialist regarding the delivery in question, the previous and subsequent similar deliveries, regarding additional work performed or yet to be performed by de Smaakspecialist, as well as regarding the claims of de Smaakspecialist on the customer on account of default by the customer in the performance of its obligations vis-à-vis de Smaakspecialist.

2. The customer is not entitled to use or sell the goods in the course of his normal business operations, nor alienate the goods in any way whatsoever, to encumber same with a limited right of security or a right of enjoyment or to remove it from de Smaakspecialist recovery in any other way.

3. The customer is obliged to identify the goods delivered to it by de Smaakspecialist and still under its control as belonging to de Smaakspecialist and maintain said identification until the title has passed to it.
4. The customer is obliged to insure the goods for the duration of the reservation of title against fire, explosion and water damage as well as theft and to make the policies of these insurances available for inspection by de Smaakspecialist upon first notice. All claims of the customer on the insurers of the goods pursuant to said insurance shall be pledged by the customer to de Smaakspecialist in the manner indicated in Art. 3:239 of the Dutch Civil Code as soon as de Smaakspecialist expresses that it wants such, by way of additional security for de Smaakspecialist claims on the customer.
5. If the customer is in default in meeting its payment obligations vis-à-vis de Smaakspecialist, or de Smaakspecialist has good grounds to fear that it will default as regards those obligations, de Smaakspecialist is entitled to take back the goods delivered subject to the reservation of title. After recovery, the customer shall be credited for the market value, which cannot be higher than the original sales price under any circumstances, less the costs pertaining to the recovery and the loss sustained by de Smaakspecialist due to taking back the goods.
6. If de Smaakspecialist claims the goods as its property, the customer is obliged to show de Smaakspecialist the place where the goods are located and the customer already now gives permission that in such event, the appropriate sites and buildings can be accessed in order to take back the goods.
7. If the customer makes new goods out of the goods delivered by de Smaakspecialist, subject to the reservation of title, the customer shall act pursuant to the instructions of de Smaakspecialist in doing so and the customer shall keep the new goods for de Smaakspecialist.
8. To the extent that de Smaakspecialist has any (other) claims on the customer (as referred to in paragraph 1) and it has delivered to the customer goods not (any longer) subject to a reservation of title, the customer (already now) hereby vests in de Smaakspecialist (for such event) a non-possessory right of pledge on these goods, which is hereby accepted by de Smaakspecialist. The customer shall sign an instrument for the vesting of the right of pledge upon de Smaakspecialist first request. The customer shall guarantee that it is authorized to pledge the goods and that the goods are not subject to a pledge and/or limited rights other than de Smaakspecialist rights.
9. The customer undertakes not to assign or pledge claims it acquires on its customers to third parties without the prior written permission of de Smaakspecialist. The customer also undertakes that as soon as de Smaakspecialist expresses its wish for same, it will pledge said claims to de Smaakspecialist in the manner indicated in Art. 3:239 of the Dutch Civil Code by way of further security for its claims on the customer, whatever their basis.

#### **Article 7: DELIVERY AND DELIVERY TIMES**

1. Ex-works, Schutweg 11a 5145 NP, Waalwijk, the Netherlands.
2. As soon as de Smaakspecialist has received the payment of the goods, de Smaakspecialist will inform the buyer about the day the order is ready for transport.
3. Pickup times: Monday – Thursday between 08.00am – 15.00pm. Friday between 08.00am – 12.00am.
4. Returning goods shall only be permitted if de Smaakspecialist has granted express written permission for same.

#### **Article 8: TRANSPORT AND TRANSFER OF RISK**

1. As the de Smaakspecialist works EX-works, the buyer should arrange the transport.
2. The risk of damage or loss of the goods shall reside with the customer as of the moment that the goods are loaded for transport.

#### **Article 9: INSPECTION AND CLAIMS**

1. After the discovery of any defect, the customer may not continue the goods in question until after it has obtained written permission for this from de Smaakspecialist. In addition, the customer is obliged to return to de Smaakspecialist at its request the goods in question for its own account and risk, packaged in the same manner as by de Smaakspecialist. In the absence of this, claims shall not be accepted.

2. Returns regarding invoices must be submitted in writing by the customer to de Smaakspecialist within 8 days after receipt of the invoice. Claims filed late shall not be accepted by de Smaakspecialist.
3. The customer is obliged to give an expert appointed by De Smaakspecialist the opportunity to assess the claim made. If the claim is found to be justified by an independent expert, the costs of the investigation shall be borne by de Smaakspecialist. Otherwise, the costs shall be borne by the customer.
4. The filing of a complaint shall never constitute reason for suspension or settlement of the payment obligations of the customer vis-à-vis de Smaakspecialist or rescission of the agreement(s).
5. If de Smaakspecialist finds that a claim is justified, it shall deliver replacement goods, if such is possible, or, if such should not be possible, credit the customer with the amounts invoiced to him. De Smaakspecialist is not obliged to render any other performance or to compensate any losses.
6. If De Smaakspecialist finds that a claim is not justified, goods returned to it in this matter shall be destroyed, unless the customer indicates in writing that it wishes the goods to be returned to it, which should already be indicated to de Smaakspecialist by the customer when the goods are returned to de Smaakspecialist. The forwarding to the customer shall be for its account and risk.

#### **Article 10: OBLIGATIONS OF THE CUSTOMER IN GENERAL**

The customer guarantees that it:

1. Shall only trade any goods circulated by De Smaakspecialist in the original packaging from De Smaakspecialist, without making any changes to same or damaging same and, insofar as applicable, shall charge its customers for packaging equal amounts for deposits and/or fees for return packaging or refund this upon return as indicated in the price list or price current of De Smaakspecialist for the relevant goods.
2. Shall only advertise for De Smaakspecialist's brands in the manner approved by De Smaakspecialist.
3. Shall refrain from any negative statements about the name, brands, products or packaging of De Smaakspecialist.
4. Shall store and treat the products of De Smaakspecialist in a proper way.
5. The customer shall pay a penalty of € 5,000,-- (in words: five thousand Euros) for each violation of or failure to fully comply with the obligations indicated in this article, which penalty shall not be eligible for a discount or set-off, and it shall accept in such an event that De Smaakspecialist is entitled to annul (a) concluded purchase agreement(s) or declare same rescinded and/or exclude the customer from further delivery of goods, all with a right to damages, without prejudice to De Smaakspecialist's right to still claim performance, whether or not with damages.

#### **Article 11: LIABILITY**

1. Save in the event of intent of gross negligence on its part or its executives, De Smaakspecialist shall not be liable for any damage, whatever the nature, which the customer, its personnel or other assisting persons, or a third party might sustain due to the non-functioning or improper functioning of the goods delivered by De Smaakspecialist nor due to the goods delivered by De Smaakspecialist being unsound, nor for damage due to any advice by De Smaakspecialist regarding those goods, nor for damage due to late, incorrect or incomplete delivery of the relevant goods.
2. In case it were to be established legally De Smaakspecialist is nevertheless liable for any damage referred to there, its liability shall at any rate be limited to the amount of any insurance coverage taken out by it, or, should there be no insurance coverage, for any reason whatsoever, the invoice value of the goods delivered by it to which its liability is connected.
3. The customer shall indemnify De Smaakspecialist against all claims from its assisting persons, including its staff or representatives and/or third parties regarding damage for which De Smaakspecialist has excluded and/or limited liability vis-à-vis the customer.
4. With respect to a symbol under the Uniform Article Encoding as referred to in the European Article Numbering Association (EAN) regulations, De Smaakspecialist shall never be liable, unless it has not followed the EAN regulations.
5. The provisions in paragraphs 1-4 pertain to the contractual and non-contractual liability of De Smaakspecialist.

#### **Article 12: GUARANTEE**

1. De Smaakspecialist guarantees the soundness, as well as the quality of the goods delivered by it and/or the goods processed by it, all this with due observance of the provisions elsewhere in these terms and conditions.
2. A guarantee for goods bought by de Smaakspecialist elsewhere is only given if and to the extent the relevant manufacturer/supplier provides a guarantee.
3. The guarantee shall only cover the replacement or the repair of the goods involved. All damage, both direct and indirect, caused by the failure to function properly or unsoundness of goods delivered by de Smaakspecialist, shall not be covered by the guarantee.
4. Claims on the guarantee shall not be accepted if in storing and/or using the goods, the (manufacturer's) instructions or our instructions were not followed, if the delivered goods are used for purposes other than the normal ones or in the event of injudicious treatment, use or maintenance of the delivered goods.
5. If the customer fails to perform its obligations, de Smaakspecialist shall also be relieved from its (guarantee) obligations.
6. Every guarantee shall lapse if the customer itself makes any changes with respect to the goods delivered by De Smaakspecialist or arranges for such changes, if the goods are used for purposes other than normal business purposes, or if they are treated or maintained carelessly or injudiciously.
7. Guarantees shall also be cancelled in the event of late or incorrect inspection or a claim as referred to in Article 9.

### **Article 13: FORCE MAJEUR**

1. Force majeure on the part of de Smaakspecialist refers here to: any circumstance independent of its volition or unforeseeable and unforeseen, which hinders the performance of the obligations governed by these terms and conditions, either permanently or temporarily.  
Force majeure shall also include, insofar as not already included under the above description: strikes, sit-ins at the company, sickness leave of staff, transportation difficulties, riots, acts of war, fire, water damage, defects in machinery, defects in computers, electrical power disruptions, governmental measures, in any case including import and export restrictions, sales prohibitions and all other company disruptions and failed harvests, everything at de Smaakspecialist or its suppliers, as well as default by its suppliers due to which de Smaakspecialist cannot (any longer) meet its obligations vis-à-vis the customer.
2. If de Smaakspecialist believes that the force majeure is temporary, it shall be entitled to suspend the performance of the agreement until the circumstance causing the force majeure has ceased.
3. If de Smaakspecialist believes that the force majeure is permanent, it shall be entitled to adjust the agreement to the circumstances or to rescind it in part or in its totality without court intervention and without being obliged to pay any damages to the customer.
4. If at the time the force majeure situation begins, de Smaakspecialist has already met the agreed obligations in part, it is entitled to invoice separately and prematurely the work performed, and the customer should pay the invoice as if it concerned a separate transaction.

### **Article 14: INTELLECTUAL AND/OR INDUSTRIAL PROPERTY RIGHTS**

1. All intellectual and/or industrial property rights, both of de Smaakspecialist and its suppliers, on the goods delivered by it are retained by de Smaakspecialist.

### **Article 15: RESCISSION**

1. If:
  - a. the customer does not meet any obligation of it vis-à-vis de Smaakspecialist, or fails to do so in a timely or correct manner;
  - b. the customer is declared bankrupt, or an application for same has been made, applies for suspension of payments, or if it is subject to suspension of payments;
  - c. the customer applies for debt rescheduling;
  - d. all or a part of its property will or has been seized;
  - e. De Smaakspecialist believes that the customer proves to be insufficiently credit-worthy to meet its obligations vis-à-vis de Smaakspecialist;
  - f. the customer is dissolved or liquidated;
  - g. the customer proceeds to cease or has already begun to cease its business operations, transfer of

its business or part of same, including the contribution of its company to company yet to be incorporated or existing already, and the (partial) transfer of control in the company and the customer has not yet met all its obligations vis-à-vis de Smaakspecialist, De Smaakspecialist shall be entitled, due to the mere occurrence of one of the aforesaid circumstances, without any warning or notice of default or judicial intervention being required, either to regard the agreement as rescinded in full or in part and to reclaim the deliveries as its property and/or demand any amount the customer should owe de Smaakspecialist in full, all this without prejudice to de Smaakspecialist entitlement to damages.

#### **Article 16: TERMINATION**

1. In the event of an agreement for a(n) (in)definite period of time, de Smaakspecialist shall at all times be entitled to terminate this immediately for any reason whatsoever. De Smaakspecialist shall not be obliged to pay any damages under any circumstances.
2. Without prior written consent of de Smaakspecialist the customer shall never be entitled to terminate the agreement. De Smaakspecialist may attach terms to granting this permission, such as its discretion.

#### **Article 17: SET-OFF**

1. De Smaakspecialist shall at all times be entitled to set-off all claims of the customer on de Smaakspecialist that can be expressed in terms of cash, with claims on the customer of de Smaakspecialist and companies associated with de Smaakspecialist in any way.
2. If the customer is in any way part of a group of companies, the customer in the sense of this article shall also include any companies belonging to the group in any way.

#### **Article 18: APPLICABLE LAW AND COMPETENT COURT**

1. All agreements concluded with de Smaakspecialist which are governed by these general terms and conditions are exclusively subject to Dutch law. The Vienna Sales Convention and similar treaties do not apply.
2. All disputes arising between de Smaakspecialist and the customer in relation to agreements concluded by them, including these terms and conditions, may only be heard by the (President of) the 's Hertogenbosch District Court, save in the event the dispute falls within the jurisdiction of the Cantonal Court, in which event the statutory jurisdiction rules shall apply.
3. The provisions in paragraph 2 do not diminish in any way de Smaakspecialist right to turn at all times to the competent court in the place where the customer has its registered offices or, if de Smaakspecialist should desire such, to turn to the Netherlands Arbitration Institute. The place of arbitration shall be 's-Hertogenbosch, the Netherlands. The proceedings shall be conducted in English.