

## GENERAL TERMS AND CONDITIONS OF SALE

### 1. Definitions

- 1.1.** In these GTC's and in any Contract entered into on their basis, the following capitalised terms shall have the meaning ascribed to them under this Section 1.1:
- 1.1.1. **Contract:** any agreement entered into in writing between the Seller and the Customer for the sale and/or supply of Products. The terms and conditions of any Contract comprise STC's (if any) and these GTC's.
- 1.1.2. **Customer:** the party to the Contract other than the Seller.
- 1.1.3. **GTC's:** these general terms and conditions of sale.
- 1.1.4. **Products:** any and all products and related services or goods to be delivered or supplied by the Seller under any Contract, as specified in the relevant STC's.
- 1.1.5. **Seller:** the entity of the Picart & Beer Group mentioned in the STC's acting as the Seller, or, if no such mention is made in the STC's, Picart & Beer SA, with registered offices in Avenue de Tervueren 365-367, 1150 Woluwe Saint-Pierre, Belgium, VAT BE 0422.600.195.
- 1.1.6. **STC's:** specific terms and conditions agreed in writing between the Seller and the Customer in relation to any Contract.

### 2. Scope & Applicability

- 2.1.** These GTC's apply to all Contracts entered into between the Seller and the Customer. By the mere action of inquiring for the delivery of Products and/or of placing an order for Products, the Customer accepts these GTC's in full.
- 2.2.** These GTC's can only be varied or supplemented by STC's drawn up in writing and signed on behalf of the Seller. Any such STC's will only vary or supplement the GTC's in the framework of the specific Contract they relate to.
- 2.3.** In no event shall any other terms and conditions, and in particular those of the Customer, apply to any Contract. The application of any such other terms is hereby disclaimed by the Seller and waived by the Customer.

### 3. Order & Order Confirmation

- 3.1.** The Sellers' offers and quotations for Products are non-binding. The Customer must order Products in writing. The Seller is entitled to require the Customer to place orders in accordance with standard documentation or process(es) as may be established from time to time. The Seller shall only consider for acceptance orders that are firm and binding upon the Customer. Such orders shall be considered as a firm offer to contract issued by the Customer.
- 3.2.** A Contract shall only be entered into (and the Seller shall therefore only be bound) upon issuance by the Seller STC's and signature of that document by the Customer, provided, however, that any payment of, acceptance of, or provision of instructions regarding, the delivery of Products referred to in an order confirmation shall in any event be deemed to reflect the Customer's acceptance to enter into the Contract based on these GTC's.

### 4. Product Quantity & Quality

- 4.1.** The specifications of the Products are set out in the STC's. The quality of the Products is established by the analysis delivered by, or available with, the Seller. The Customer accepts that these analysis results will be used for the purpose of invoicing the Products.
- 4.2.** The Seller provides no other warranty than conformity to the specifications set out in the STC's. In particular, the Seller provides no warranty of fitness for any purpose (even if such purpose was disclosed to the Seller) or merchantability of the Products. Any legal warranty is hereby disclaimed to the fullest extent permissible under applicable law. No other warranty applies and the Seller cannot be held liable for claims or damage resulting from normal wear and tear, improper use or wrongful storage by the Customer or third parties, faulty or negligent handling, overloading or handling of the Products with unsuitable equipment.
- 4.3.** The quantity of Products to be delivered is set out in the STC's. Weighing reports provided by the Seller shall be the basis for invoicing.

**4.4.** The Customer acknowledges that the Products are commodities of which the availability depends on factors that the Seller may not control (such as production shortages, market disruption, international sanctions, etc.). Therefore, unless otherwise stated in the STC's, the Products are sold "subject to availability". In case of shortage, the Seller is entitled to apportion the available Products amongst its customers and to reduce the quantity of Products to be delivered under any Contract, without incurring any liability towards the Customer.

## **5. Transport & Delivery**

**5.1.** Subject to different arrangements set out in the STC's, the Products are delivered DDP (Incoterms 2023) at the Customer's premises.

**5.2.** Notwithstanding the provisions of Section 5.1, carriage of the Products shall always be deemed to have been organised by the Seller on the Customer's behalf. All risks associated with the transportation of the Products (inclusive of packaging, loading, unloading and clearing operations) shall vest with the Customer.

**5.3.** Delivery dates are indicative and undertaken on a reasonable efforts basis only, unless otherwise provided in the STC's. Where a delivery suffers delay for reasons that cannot be directly attributed to a breach of the Seller's duties under the Contract or the applicable law, the Seller shall not be liable for such delay. Carriage will be organised without guarantee of choice of the least expensive route.

**5.4.** Upon delivery of the Products in accordance with Section 5.1, the Customer must thoroughly check the condition of the Products and their packaging. Claims for:

5.4.1. Visible defects or nonconformities affecting the Products or their packaging must be denounced in writing in the carriage documentation and by way of notification to the Seller and to the carrier within 3 working days of delivery, failing which the delivery shall be deemed accepted without reservation.

5.4.2. Hidden defects or nonconformities affecting the Products must be denounced in writing by notification to the Seller within 3 working days of their discovery, failing which the Customer shall be deemed to waive such claim.

**5.5.** In the event that the Customer formulates a valid claim for defects under Sections 5.4.1 or 5.4.2 above, the Customer shall:

5.5.1. Keep the Products stored in accordance with the instructions of the Seller, at the Customer's cost;

5.5.2. Allow the Seller access to the Products to investigate the Customer's claim; and

5.5.3. Subject to the provisions of Section 9.5, assist the Seller in any recourse against the carrier or any other third-party likely to be liable for the alleged defects (without such action amounting to acknowledgement of the validity of the Customer's claim).

**5.6.** Where the Seller accepts the merits of a valid claim made under Sections 5.4.1 or 5.4.2, the Seller's liability shall be fully and properly discharged, at the Seller's sole choice, by either replacing the Products with an equivalent quantity of non-defective Products, or by reimbursing to the Customer in full for the defective Products.

**5.7.** In case of failure by the Customer to accept delivery of the goods, the Customer shall be considered in breach of the Contract, which, however, shall not discharge the Customer from the obligation to pay the delivery.

## **6. Risk & Title**

**6.1.** Notwithstanding the provisions of Section 5.1, risks over the Products are transferred to the Seller when the Products are put at the disposal of the carrier.

**6.2.** Title to the Products shall be retained by the Seller until full and final payment of the related price and its accessories (any costs, interest, penalties, etc.). The Customer shall be entitled to process or resell the Products in the ordinary course of his business, provided, however, that the Seller's retention of title under this Section 6.2 shall attach to the Products and/or be subrogated or extended to the processed products, to the broadest extent authorised under applicable law, in accordance with Article 70 of the Act of 11 July 2013 on moveable asset security interests (*'loi sur les sûretés mobilières'*/*'wet op roerende zekerheden'*).

**6.3.** Before it becomes the owner of the Products, the Customer must:

- 6.3.1. At all times make sure that the Products (and any assets over which the retention of title extends or transfers in accordance with the law) are marked as being the Seller's property;
  - 6.3.2. Insure the Products (and any assets over which the retention of title extends or transfers in accordance with the law) at full value against theft or loss;
  - 6.3.3. Store, handle and maintain the Products (and any assets over which the retention of title extends or transfers in accordance with the law) separately from other products and in accordance with best industry practices and/or specific instructions of the Seller in this respect;
  - 6.3.4. Not pledge or otherwise encumber the Products (and any assets over which the retention of title extends or transfers in accordance with the law) for the benefit of third parties;
  - 6.3.5. Follow any reasonable instructions from the Seller to safeguard the Seller's rights under this Section 6. For the avoidance of doubt, this includes the obligation to take any action (including judicial action) to secure or collect any assets over which the Seller retains or obtains rights of ownership pursuant to this Section 6; and
  - 6.3.6. Inform the Seller immediately in writing of any circumstance in which a threat to the Seller's retention of title may arise.
- 6.4.** In case of (threatened) breach of the Contract by the Customer or in case of suspension or termination of credit insurance coverage over the Seller's transactions with the Customer, the Seller is entitled to repossess the assets over which it retains title in accordance with Section 6.2, by way of a notification in writing. The Customer must immediately allow the Seller or its representatives or carriers to enter the relevant premises to recover or take possession of such assets during normal business hours. As soon as the aforementioned notification reaches the Customer, the Customer shall cease any resale, processing, blending or other activity involving these assets or Products and make these assets or Products available for repossession to the Seller in pristine condition. Any costs in relation to the repossession of the Products or assets will be ultimately borne by the Customer.
- 6.5.** The Seller reserves the right to register its retention of title in the National Register of pledges, in accordance with the Act of 11 July 2013 on moveable asset security interests (*'loi sur les sûretés mobilières'/'wet op roerende zekerheden'*).
- 6.6.** In the event of incorporation of the Products into transformed or partially finished materials (the products having in such case become inseparable from those materials by their incorporation in them), the Customer irrevocably grants a pledge to the Seller, in accordance with the Act of 11 July 2013 on moveable asset security interests (*'loi sur les sûretés mobilières'/'wet op roerende zekerheden'*), on such transformed or partially finished materials as security for the full and final payment of the price for the Products (inclusive of all its accessories).

## **7. Prices, Credit & Payment Terms**

- 7.1.** Unless otherwise provided, the prices mentioned in the STC's are quoted inclusive of carriage and clearing costs, but exclusive of VAT. Despite the foregoing, any change in carriage, customs duties and any new taxes or costs occurring after the formation of the Contract shall give rise to a corresponding increase in the agreed prices.
- 7.2.** In no event shall the Seller be required to provide credit to the Customer in excess of (or on other terms than) the credit insurance coverage available to the Seller. The Customer accepts that this may require him to provide sureties or other types of guarantees, as may from time to time be requested by the Seller's credit insurer.
- 7.3.** The payment terms are set out in the STC's. In the event of excess, suspension or termination of credit insurance coverage over the Customer's debts towards the Seller, the Seller shall be entitled to require advance payment of any further delivery under any Contract until such coverage is reinstated.
- 7.4.** All of the Seller's invoices are payable in Brussels.
- 7.5.** Any dispute concerning an invoice must be communicated in writing within 8 days of receipt of the invoice, failing which the invoice will be considered accepted by the Client.

- 7.6.** In case any invoice remains or threatens to remain entirely or partially unpaid, the Seller shall be entitled to exercise one or more of the following remedies, without need for prior notice or judicial authorisation:
- 7.6.1. Any other invoices, whether or not payable under the applicable payment terms, shall become payable immediately;
  - 7.6.2. Suspension of any further delivery under any Contract, unless the Customer offers to pay such further deliveries in advance;
  - 7.6.3. Rescission of the relevant Contract; or
  - 7.6.4. Interest on any unpaid amount at the rate provided under the Act of 2 August 2002 on combating late payment in commercial transactions and/or the application of 10 % penalty on the invoice amount with a maximum of EUR 10,000.00 (or the equivalent in local currency) to cover recovery costs.

**7.7.** The issuance or acceptance of a negotiable instrument does not operate any novation or derogation from these terms and conditions.

**7.8.** In no event shall the Customer be entitled to withhold, set-off or retain any amounts due to the Seller under any Contract.

## **8. Other Remedies**

**8.1.** Without prejudice to any other specific remedies set out in the GTC's or any other remedies available under applicable law, any breach of Contract by the Customer that is not cured within 3 days of a notice thereto shall entitle the Seller to suspend its obligations under any Contract.

**8.2.** Without prejudice to any other specific remedies set out in the GTC's or any other remedies available under applicable law, any breach of Contract by the Customer that is not cured within 10 days of a notice thereto shall entitle the Seller to rescind the relevant Contract and claim damages from the Customer. The Seller shall be entitled to apply Section 8.1 so long as the Customer fails to indemnify the Seller.

## **9. Liability**

**9.1.** To the extent not otherwise excluded or limited under these GTC's, the Seller's liability towards the Customer in connection with the Contract:

9.1.1. Only covers direct damage to property or physical injury and excludes any liability for indirect, immaterial or consequential damage. In particular, the Seller shall in no event be liable for loss of profit, loss of production, interruption of operations, loss of income/profits, loss of use or of an opportunity to contract, financial charges, etc.

9.1.2. Is limited, under any Contract, on aggregate, to the amount invoiced to and actually paid by the Client;

**9.2.** The exclusions and limitations under Section 9.1 apply to any claim in relation to a Contract (whether contractual or non-contractual) and to the fullest extent permissible under applicable law (including in case of gross negligence), except for fraud, wilful misconduct, bodily injury or other forms of non-disclaimable (strict) liabilities such as product liability.

**9.3.** The Customer accepts that the above provisions shall also apply to the Seller's agents, directors, or auxiliaries.

**9.4.** Any liability incurred by the Seller under a Contract shall be decreased by the amount recoverable by the Customer under any insurance coverage available to the Customer.

**9.5.** Where the indemnification sought by the Customer under a Contract finds or is likely to find its source in the actions or omissions of a third party (such as a carrier or warehouse), the Customer agrees, insofar legally possible, to claim compensation for such damage directly and exclusively from the concerned third party.

## **10. Force Majeure & Hardship**

**10.1.** In the event of force majeure, the Seller reserves the right to suspend the performance of any Contract without notice or compensation. In addition, the Seller reserves the right to terminate any contract or order in whole or in part in case the event of force majeure lasts for a period that exceeds than 90 days.

**10.2.** The following events are considered as force majeure events: accidents, strikes, industrial disputes, lockouts, embargoes, wars, states of war, rebellions, sabotage, terrorist attacks/attacks, or the consequences of attacks, natural disasters, fires, floods, storm surges, other catastrophic storms, earthquakes, landslides, contagious diseases, epidemics and pandemics, operating accidents, unforeseeable disruptions in manufacturing conditions, administrative measures, difficulties in the supply of electricity, delays in the delivery of raw materials, shortage of raw materials, scrap, manufacturing problems and more generally any event of a similar nature affecting the Seller or its suppliers and delaying or making impossible the performance of their respective obligations.

**10.3.** The Parties expressly disclaim the hardship provisions contained in article 5.74 of the Belgian civil Code.

## **11. Miscellaneous**

**11.1.** The invalidity or illegality of any of the provisions of a Contract shall not result in the invalidity or nullity of the remainder of, or of provisions of the Contract, which shall remain fully valid and applicable. The parties undertake to negotiate in good faith the drafting of a new provision intended to replace, with the closest possible valid effects, the clause declared null and void. In case the parties fail to agree on such a new provision, either party can request the Court of competent jurisdiction to determine such provision.

**11.2.** The non-exercise by the Seller of any right or remedy available to him under the Contract or under applicable law does not amount to a waiver of such right or remedy. Any such waiver shall only be valid if made in writing.

**11.3.** The Customer agrees that the performance of a Contract may require the processing of personal data. The Customer represents that he has obtained all the necessary authorisations and consent of the persons whose personal data is provided to the Seller under any Contract. Personal data processed under any Contract is only stored and processed for internal use, excluding any promotional purposes. Any personal data processed under this Agreement shall be processed and stored in accordance with the relevant legal provisions (including GDPR).

**11.4.** The GTC's and any Contract (including any pre- or non-contractual obligations in relation thereto) are governed exclusively by Belgian law. The application of the Vienna Convention on the International Sale of Goods is hereby expressly disclaimed.

**11.5.** Any dispute in connection to these GTC's and/or a Contract (including any pre- or non-contractual obligations in relation thereto), shall be settled exclusively by the Courts of the judicial district of Brussels, Belgium.