

# General Terms and Conditions of Banketbakkerij De Maro B.V. and De Maro Food Group B.V.

## Article 1. General

1. The following definitions apply to these general terms and conditions:

- a. User: Banketbakkerij De Maro B.V., and De Maro Food Group B.V. having its registered office in Berkel-Enschot, municipality of Tilburg;
- b. Other Party: The natural person or corporate body that has instructed the User to carry out work and/or produce products.
2. These terms and conditions apply to any offer and any agreement between the User and any Other Party to which the User has declared these terms and conditions applicable, insofar as these terms and conditions are not explicitly derogated from in writing by the parties.
3. These General Terms and Conditions are also applicable to agreements with User in which third parties should be engaged by User.
4. The application of any purchase conditions or other conditions of the Other Party is explicitly rejected.
5. If at any time one or more provisions of these General Terms and Conditions prove to be null and void in whole or in part or become nullified, the remaining provisions in these General Terms and Conditions shall remain fully applicable. The User and the Other Party will then enter into negotiations to agree on new provisions to replace the null or nullified provisions, whereby the object and purport of the original provisions will be observed as much as possible.

## Article 2. Quotations and offers

1. All quotations and offers by the User are made without any commitment. An offer or quotation will no longer apply if the product to which the offer or quotation relates is no longer available.
2. The User cannot be bound to honour its quotations or offers if it is reasonable for the Other Party to perceive that the quotations or offers, or a part thereof, contain obvious mistakes or clerical errors. The prices stated in a quotation or offer are exclusive of VAT (Dutch btw) and other government duties, any costs incurred as part of the agreement, including travel and accommodation expenses, forwarding charges and administrative expenses, unless stated otherwise.
3. Any compound quotation shall not bind the User to perform a part of the order at a pro rata part of the price quoted. Offers or quotations shall not apply automatically to future orders.

## Article 3. Duration of contracts, delivery periods, performance of and changes to the agreement

1. The Agreement between the User and the Other Party is concluded for an indefinite period of time, unless otherwise provided for by the nature of the Agreement or if the Parties explicitly agree otherwise in writing.
2. If a term is agreed between the User and the Other Party for the completion of certain activities or for the delivery of certain goods, this will never be a binding deadline. If a term is exceeded, the Other Party should give the User written notice of default. In such a case the User is to be given a reasonable time to still execute the agreement.
3. If the User requires information from the Other Party for the execution of the agreement, the term of execution shall not commence until the Other Party has provided the User with such details correctly and fully. After the agreement has been concluded, the Other Party shall give written approval of the User's product specifications. The Other Party shall return these product specifications to the User within fourteen days of the agreement being concluded. If the Other Party does not state its approval of the product specifications within such time, the User may rely on the Other Party having agreed to such specifications. Delivery shall be made ex the User's company unless otherwise agreed between the parties. When the goods are delivered, the risk shall transfer to the Other Party, even if title has not yet been transferred to the Other Party, given the provisions of article 7.
4. The Other Party is obliged to purchase the goods at the time these are placed at its disposal. If the Other Party refuses purchase or is negligent in providing information or instructions that are necessary for their delivery, the User will be entitled to store the goods at the expense and risk of the Other Party.
5. The User has the right to have certain activities carried out by third parties.
6. The User is entitled to perform the agreement in phases and to send a separate invoice for any part that has been performed.
7. If, during the performance of the agreement, it is found that it needs to be changed or amended to enable the proper performance of the agreement, the parties will change the agreement in good time and in mutual consultation. If the nature, scope or content of the agreement is changed, regardless of whether or not this is at the request or instigation of the Other Party, or an authorized body, etc., and such change leads to a change in the qualities and/or quantities concerned by the agreement, this may also have consequences for what was originally agreed. This may result in the originally agreed amount being increased or decreased. The User shall quote the relevant prices in advance to the extent possible. Furthermore, the change to the agreement may lead to the originally agreed time of performance being changed. The Other Party accepts the possibility of the agreement being changed, including the change in price(s) and the time of performance.
8. If the agreement is changed, including any additions being made to the agreement, the User shall have the right not to perform such change until it has been approved by the person authorised thereto within the organisation of the User and until the Other Party has agreed to the price and other terms and conditions stated for the performance, including the time when this will be performed which time is to be decided then. The User not, or not immediately, performing the changed agreement shall not constitute a breach of contract on the part of the User, nor shall it be a ground for the Other Party to terminate the agreement. Without this leading to the User defaulting, the User can refuse a request to change the agreement if this would affect quality and/or quantity, for example for the work to be done or the goods to be delivered in that context.
9. If the Other Party defaults in the proper fulfilment of that to which it is obliged towards the User, the Other Party shall be liable for all damages, including costs, either directly or indirectly caused by the User because of that.
10. If the User agrees a fixed price with the Other Party, the User shall still be entitled at all times to increase such price without the Other Party then being entitled to dissolve the agreement for such reason if the increase in price results from an authority or power or obligation or liability pursuant to legislation or regulations and is caused by an increase in the costs of raw materials, wages and other materials, social insurance contributions and government levies, freight costs, etcetera or other grounds that could not have been foreseen in all reasonableness when entering into the agreement.

## Article 4. Suspension, dissolution and early termination of the agreement

1. The User is entitled to suspend the fulfilment of its obligations or to dissolve the agreement, if:
  - the Other Party does not fulfil or does not fully fulfil, or is late in fulfilling the obligations under the agreement;
  - following the conclusion of the agreement, the User gains knowledge of circumstances that give the User good reason to fear that the Other Party will not fulfil its obligations;
  - the Other Party was requested upon conclusion of the agreement to provide security for the fulfilment of its obligations under the agreement and this security is neither forthcoming nor adequate.If the delay on the part of the Other Party is such that the User can no longer be required to fulfil the agreement under the conditions originally agreed upon, the User will be entitled to dissolve the agreement.
2. The User is furthermore entitled to dissolve the agreement if circumstances occur that are of such a nature that fulfillment of the agreement is impossible, or if otherwise circumstances occur that are of such a nature that the User cannot be required in all fairness to uphold the agreement in its unmodified form.
3. If the agreement is dissolved, any claims of the User on the Other Party shall become immediately due and payable. If the User suspends the fulfilment of its obligations, it reserves its claims under the law and the agreement.
4. If the User proceeds to suspension or dissolution, it shall in no way whatsoever be obliged to compensate any damage and costs caused in any way as a result of that.
5. If the dissolution is attributable to the Other Party, the User will be entitled to compensation for the damage, including any costs caused directly and/or indirectly as a result of that.
6. If the agreement is terminated prematurely by the User, the User will, in consultation with the Other Party, see to the transfer to third parties of any activities still to be performed, unless the termination is attributable to the Other

Party. If additional costs are involved for the User in the transfer of the activities, these will be charged to the Other Party. The Other Party is obliged to pay these costs within the term set for that purpose, unless the User states otherwise.

7. In the event of a winding-up, of a (petition of) suspension of payment or bankruptcy, or attachment - in case and insofar as the attachment has not been annulled within three months - at the expense of the Other Party, of debt rescheduling or any other circumstance as a result of which the Other Party can no longer freely dispose of its assets, the User will be free to terminate the agreement directly and with immediate effect or cancel the order or agreement, without any obligation on its part to pay any compensation or damages. The claims of the User on the Other Party will in such event be forthwith due and payable.

## Article 5. Force majeure

1. The User is not obligated to fulfil any obligation towards the Other Party if hindered thereto as a result of a circumstance that is not due to negligence and for which User is accountable neither by law, by a juristic act or according to generally accepted practice.
2. Force majeure shall be taken to include all circumstances which make it temporarily or permanently impossible for the User to comply with its obligations, such as, but not limited to, fire, work strikes, lock-outs, social unrest, war, government measures such as import or export restrictions, supplies, defaulting, transport problems, natural disasters, disturbances affecting the User's or any of its suppliers' business operations, power failures, theft or embezzlement from the User's warehouses or workshops and any further circumstances where it would not be reasonable to expect the User to comply or continue to comply with its obligations in respect of the Other Party. Force majeure on the part of suppliers to the User shall also be considered as force majeure on the part of the User. The User also has the right to invoke force majeure if the circumstance hindering the fulfilment or further fulfilment of the agreement commences after the User should have fulfilled its obligation.
3. The User may suspend its obligations under the agreement during the period that the force majeure has not been resolved. If this period exceeds two months, either party will be entitled to dissolve the agreement without obligation to compensate the other party for damages incurred.
4. Insofar as at the time of the commencement of the force majeure the User has already partly fulfilled or will be able to fulfil its obligations under the agreement, and an independent value can be assigned to the part fulfilled or that will be fulfilled, the User will be entitled to send a separate invoice for the part already fulfilled or to be fulfilled. The Other Party is obliged to pay this invoice as if it represents a separate agreement.

## Article 6. Payment and collection charges

1. Payment is to be made within fourteen days from the date of invoice in a manner to be designated by the User and in the currency in which the invoice has been drawn up, unless stated otherwise by the User in writing. The User may send periodic invoices.
2. If the Other Party fails to pay an invoice on time, the Other Party will be in default by operation of law. The Other Party will then owe interest of 1% a month, unless the statutory interest rate is higher, in which case the statutory interest will apply. The Other Party will also owe 15% extrajudicial collection costs, to be calculated on the basis of the principal sum including interest and with a minimum of €500. Interest on the amount due will be charged from the time the Other Party is in default until the time of payment of the full amount due. The Other Party will also owe interest on the collection charges due.
3. The Other Party is never entitled to set off the amount it owes the User.
4. Any objections to the amount invoiced shall not suspend the obligation to pay.
5. If, after entering into the agreement, the Other Party shall have to make advance payments immediately upon the User's request, such payments shall be for the amounts stated by the User. The User shall not have to pay interest on advance payments.
6. The User shall be entitled to demand sufficient security - with the User deciding what it sufficient - from the Other Party for it complying with its obligations.

## Article 7. Reservation of title

1. All goods delivered by the User under the agreement remain the property of the User until the Other Party has properly fulfilled all obligations under the agreement(s) concluded with the User.
2. Goods delivered by the User that are subject to retention of title pursuant to paragraph 1 above, may neither be resold nor be used as an instrument of payment. The Other Party is not entitled to pledge the goods subject to retention of title nor to encumber them in any other way.
3. The Other Party is required to always do everything that may reasonably be expected of it to safeguard the property rights of the User.
4. If third parties secure attachment of the goods delivered under retention of title or intend to establish rights on or assert rights over them, the Other Party is obliged to notify the User of this immediately.
5. The Other Party undertakes to insure the items delivered subject to retention of title and to keep them insured against fire damage, explosion damage, water damage and theft, and on demand to provide the policy of this insurance to the User for inspection. The User shall be entitled to receive any such insurance money that is distributed. To the extent necessary, the Other Party shall undertake - in respect of the User - in advance to render its full cooperation in anything that might be necessary or desired in this respect.
6. In the event that the User wishes to exercise its property rights referred to in this article, the Other Party will give the User and third parties to be designated by the User unconditional and non-revocable permission in advance to enter all such locations containing the User's property for the purpose of recovering said goods.

## Article 8. Guarantees, examination, complaints and limitation period

1. The goods to be delivered by the User comply with the usual requirements and standards that may reasonably be set for them at the time of delivery and for which they are intended during normal use. The guarantee referred to in this article applies to goods destined for use inside the Netherlands. In the event of any use outside the Netherlands, the Other Party shall verify itself that such goods are suitable for use in other countries and comply with the conditions set for such use. In that event, the User can require other guarantees and other conditions as regards the goods to be delivered or the work to be carried out.
2. The guarantee referred to in paragraph 1 of this article shall apply for the duration of the maximum shelf life or respectively until the use-by date of the goods delivered unless the nature of what has been delivered implies something else or unless the parties have agreed otherwise. If the guarantee furnished by the User concerns an item that was produced by a third party, such guarantee will be limited to the guarantee furnished by the producer of such item, unless stated otherwise.
3. Any form of guarantee shall become ineffective if a defect was caused by injudicious or improper use of such good(s), improper storage or maintenance thereof by the Other Party and/or by third parties, or if the Other Party or third parties have made or attempted to make changes to the good(s), or attached other goods to the good(s) that should not be attached to the good(s) or if the goods have been processed or worked on in another manner than as prescribed without the User's written permission. The Other Party shall not be entitled to claim any guarantee either if the defect was caused by or is the result of, circumstances that are beyond the User's control, including weather conditions, such as for example, but not restricted to, extreme rain or extreme temperatures, etcetera.
4. The Other Party is obliged to examine the goods delivered or to have such goods examined as soon as they are placed at its disposal. As part of this inspection, the Other Party shall verify that the quality and/or the quantity of the goods delivered are in compliance with what has been agreed. Any visible defects shall be reported to the User in writing within eight days of the goods being delivered. The notice shall contain an accurate description of the shortcoming, in as much detail as possible, enabling the User to react in an adequate manner. The Other Party shall enable the User to investigate a complaint or to have it investigated.
5. If the Other Party complains in time, this will not suspend its payment obligations. In such event, the Other Party will still have to accept and pay for any other goods ordered.

6. If a defect is reported later, the Other Party shall no longer be entitled to repair, replacement or damages.
7. If an item has been established to be defective, and if a claim has been filed in good time in this respect, the User will, at its discretion, replace the defective item or ensure that it is repaired within a reasonable period of receiving the returned item or, if returning it is not reasonably possible, after receiving a written notice regarding the defect by the other party, without the Other Party having any further entitlements to damages in any form whatsoever. If the item is replaced, the Other Party will have to return the item that is replaced to the User and provide title to such item to the User, unless the User specifies differently.
8. If a claim is found not to be justified, the integral costs, including the costs of research, incurred by the User as a result shall be at the Other Party's expense.
9. After the guarantee period has elapsed, all the costs of any repair or replacement, including any handling, shipping and travel costs, will be charged to the Other Party.
10. Notwithstanding the statutory limitation periods, the limitation period of all claims and defences towards the User and towards any third parties involved by the User in the performance of an agreement is six months from the date of the (first) delivery.

## Article 9. Liability

1. The User shall not be liable for any damage or loss, regardless of its nature, caused by the User relying on incorrect and/or incomplete information that was supplied by or on behalf of the Other Party.
2. Should the User be liable for any damage whatsoever, the User's liability shall be limited to a maximum of twice the invoice value of the order, or to that part of the order to which the liability relates.
3. The User's liability shall in any case always be limited to the amount paid out by its insurer where appropriate.
4. The User shall only be liable for direct loss.
5. Direct loss is only taken to mean the reasonable costs incurred to determine the cause and extent of the damage, insofar as the determination relates to loss within the meaning of these Terms and Conditions, or any reasonable costs incurred in order to bring the User's defective performance in line with the agreement, insofar as such costs can be attributed to the User, and reasonable costs incurred to prevent or limit damage, insofar as the Other Party can demonstrate that such costs have resulted in limitation of the direct loss as referred to in these General Terms and Conditions.
6. The User shall never be liable for indirect loss, including consequential loss, lost profit, lost savings, damage to a party's image and loss due to business standstill.
7. The limitations of liability included in this article shall not apply if the loss is due to intention or gross negligence on the part of the User or of its supervisory employees.

## Article 10. Indemnification

1. The Other Party will indemnify the User for any claims of third parties that sustain damage as a result of the performance of the agreement and the cause of which can be attributed to parties other than the User.
2. If the User should be prosecuted by third parties in relation to this, the Other Party will be obliged to assist the User both in and out of court and do everything that might be expected from the Other Party in such event. If the Other Party continues to fail to take adequate measures, the User shall be entitled, without notice of default, to proceed to take action itself. All costs and damages on the part of the User and third parties caused as a result of this shall be borne in their entirety by the Other Party.

## Article 11. Intellectual property

1. The Other Party shall not be allowed to remove or change any indications of copyrights, brands, trade names, patents or other rights from the Products delivered.
2. The User reserves the copyrights and all industrial property rights to offers made by it and to designs, recipes/formulations/product specifications, images, drawings, mock-ups, products etc. provided by it.
3. Title to the rights to the data referred to in the above paragraph shall be retained by the User regardless of whether the Other Party has been charged any costs for their production. Such data must not be copied, used, or shown to third parties without the prior written permission from the User. The Other Party shall owe the User a penalty of €25,000 for every individual breach of this provision, without prejudice to the User's right to demand full damages.

## Article 12. Several liability

1. If 'the Other Party' designates several people and/or companies, each one of them shall be severally liable to fulfil the obligations from the agreement.

## Article 13. Applicable law and disputes

1. Dutch law applies exclusively to all legal relationships to which the User is a party, even if an obligation is executed in whole or in part abroad or if the party involved in the legal relationship has its domicile abroad. The Vienna Sales Convention on the International Sale of Goods (CISG) does not apply.
2. Only the court in the place of domicile of the User is competent to take cognisance of disputes, unless the law prescribes otherwise. The User is nonetheless entitled to submit a dispute to the legally competent court.

## Article 14. Location and change of terms and conditions

1. The most recently filed version or the version applicable at the time of concluding the legal relationship with the User shall apply.
2. The Dutch text of these General Terms and Conditions shall prevail for the interpretation thereof.