

# GENERAL PURCHASE CONDITIONS

All Products and/or Services to be purchased by DE MARO are subject to the following general purchase conditions:

## 1. DEFINITIONS

The following definitions apply to our general purchase conditions:

<b>Offer</b>	every offer from a Supplier to DE MARO in connection with Products and/or Services, in any form and in any manner whatsoever;
<b>Article</b>	an (essential) part of the agreement setting out the arrangements made;
<b>GDPR</b>	General Data Protection Regulation;
<b>Service</b>	a service purchased by DE MARO from the Supplier by means of a Purchase Order, not being the creation of a work or the delivery of a Product;
<b>Purchase Order</b>	a call-off order placed by DE MARO with the Supplier for one or more Products and/or Services;
<b>Purchase Conditions</b>	these general purchase conditions;
<b>Supplier</b>	any natural or legal person who makes an Offer to DE MARO or with whom DE MARO concludes or has concluded an Agreement;
<b>Delivery</b>	the delivery of the Products and/or Services by the Supplier according to the agreed specifications at the time and address specified by DE MARO;
<b>Agreement</b>	the purchase transaction in which DE MARO and the Supplier have agreed to the Delivery of Products and/or Services by the Supplier to DE MARO in accordance with the provisions of the Purchase Conditions and at a price set out by DE MARO and the Supplier in the Agreement;
<b>Product</b>	a product ordered by DE MARO from the Supplier by means of a Purchase Order, including the packaging of that product.
<b>Recall</b>	recalling and removing Products delivered by the Supplier to DE MARO and having a quality defect identified by DE MARO or the manufacturer of the Product and relating to the quality, safety, operation and processing of a Product.
<b>DE MARO</b>	BANKETBAKKERIJ "DE MARO" B.V., a private limited liability company having its registered office and principal place of business at Knippersven 15 in (5056 DE) Berkel-Enschot, the Netherlands, listed in the Commercial Register of the Chamber of Commerce under number 18055914.

## 2. APPLICABILITY OF PURCHASE CONDITIONS

- 2.1 All Offers made by a (potential) Supplier to DE MARO, all Agreements concluded by DE MARO with its Suppliers and all deliveries made by the Supplier to DE MARO are governed by these Purchase Conditions. By making an Offer, concluding an Agreement, performing a Purchase Order or delivering Products and/or Services, the Supplier accepts the applicability of the Purchase Conditions.
- 2.2 All deliveries by the Supplier to DE MARO are governed by the provisions of the Agreement, including these Purchase Conditions.
- 2.3 The applicability of the Supplier's General Terms and Conditions of Sale and/or other terms and conditions is not accepted by DE MARO and is expressly rejected.
- 2.4 Once the Purchase Conditions apply to any Offer,

Agreement, Purchase Order or delivery by the Supplier to DE MARO, the Purchase Conditions, or at least the most recent version thereof, will also apply without further notice to any other Offer, Agreement, Purchase Order or delivery by the Supplier to DE MARO.

2.5 In case of any conflict between separate written agreements between the parties and these Purchase Conditions, the separate written agreements will prevail.

### **3. OFFER, AGREEMENT AND PURCHASE ORDER**

3.1 All requests for information submitted by DE MARO to the Supplier or the submission of an Offer by the Supplier are without obligation and do not bind DE MARO.

3.2 Every Offer made by the Supplier shall be irrevocable for a minimum period of fourteen (14) days counting from the moment when DE MARO received the Offer.

3.3 An Agreement between DE MARO and the Supplier is concluded by DE MARO's written confirmation of an Offer in the form of a Purchase Order.

3.4 The Supplier is not entitled to change the Purchase Order or to perform it in another manner, unless DE MARO has agreed to this in writing.

3.5 The Supplier is not entitled to transfer all or part of the performance of an Agreement or Purchase Order to one or more third parties, unless DE MARO has agreed to this in writing in advance. In that case, the Supplier remains fully responsible at all times for the correct performance of the Agreement or Purchase Order.

3.6 DE MARO reserves the right to cancel the Delivery by written notice to the Supplier, provided that the cancellation is announced thirty (30) working days before the Delivery. In the event DE MARO invokes cancellation, it will not owe any compensation to the Supplier.

### **4. GUARANTEES OF THE SUPPLIER**

4.1 The Supplier guarantees:

- that the Products and/or Services are delivered in accordance with the agreed specifications;
- that the Products and/or Services are suitable for the purpose and use ensuing from the nature of the Products and/or Services;
- that the Products and/or Services and the production or other process with which they are created comply with all applicable industry standards and statutory regulations;
- that the Products are packaged properly and undamaged in accordance with the applicable statutory regulations and/or the conditions drawn up by DE MARO;
- that the Products are delivered in time, along with a functional, complete and accurate description of the product information, in a manner prescribed by DE MARO;
- that the Products are free from any limited right, qualitative right or other rights and/or claims of third parties;
- that the Products and/or Services comply with all obligations arising from applicable laws and regulations. If it appears that the Supplier does not comply with all the aforesaid obligations, the Supplier will, at DE MARO's first request, make all necessary changes in order to comply with the obligations.

4.2 If one or more Products and/or Services do not comply with the agreed specifications or one of the other terms and conditions is not met by the Supplier, DE MARO may demand performance of the Agreement, in which case the Supplier shall supply the Products and/or Services to DE MARO without delay in accordance with the agreed specifications and/or other terms and conditions. DE MARO may also terminate the Agreement in whole or in part. Regardless of which of the above choices DE MARO makes, it expressly reserves all other rights against the Supplier, including the right to (additional) compensation.

4.3 In all cases, the Supplier shall - without being entitled to any reimbursement of costs and at DE MARO's first request - immediately collect the rejected Products from DE MARO and destroy them at its own risk and expense, unless DE MARO and the Supplier agree on another purpose for the rejected Products.

4.4 If the Supplier fails to comply with the provisions of Article 4.1. of these Purchase Conditions, DE MARO may suspend inclusion of the Product in its product range, no longer purchase the Product

from the Supplier and/or charge the Supplier for the costs incurred by it for DE MARO having to complete the product information, without prejudice to DE MARO's other rights against the Supplier as a result of this shortcoming of the Supplier.

- 4.5 If DE MARO is required to Recall any Products delivered to DE MARO, the Supplier will cooperate with DE MARO to the extent reasonably necessary and will do everything DE MARO asks to execute such Recall and will compensate DE MARO for all loss and indemnify DE MARO against all third-party claims arising from the Recall.

## **5. PRICES, INVOICING AND PAYMENT**

- 5.1 All prices are exclusive of turnover tax, but inclusive of all other taxes, duties, fees and costs, including the costs of the agreed delivery method and delivery to the agreed location(s) and packagings, insofar as such packagings are not reusable packagings that need to be returned to the Supplier.
- 5.2 All prices of Products are fixed.
- 5.3 Invoicing takes place in the manner indicated by DE MARO. The term of payment of an undisputed invoice is sixty (60) days. A dispute made by DE MARO within the payment term will suspend DE MARO's obligation to pay until DE MARO and the Supplier have reached agreement on the invoice or a final court decision has been rendered on the disputed invoice.
- 5.4 DE MARO is entitled to set off any claims which it or any of its affiliated companies may at any time have against the Supplier against any claims which the Supplier may have against it or any of its affiliated companies, without further permission. The Supplier is not allowed to set off any of its claims against any of the Supplier's claims against DE MARO, other than with DE MARO's written permission.
- 5.5 All of the Supplier's claims against DE MARO will lapse after six (6) months counting from the day on which the Supplier became aware or could reasonably have become aware of such claim against DE MARO.
- 5.6 Additional work and/or other deviations from the Agreement, even if they are savings or improvements, will only be taken into account if they have been notified by the Supplier to DE MARO in advance and ordered by DE MARO in writing.
- 5.7 The Supplier shall not assign, pledge or transfer under any title whatsoever its claims against DE MARO arising from the order to a third party without DE MARO's prior written consent. Transferability of the aforementioned claims is excluded as referred to in Article 83(2) of Book 3 of the Dutch Civil Code.

## **6. DELIVERY, OWNERSHIP AND RISK**

- 6.1 The Supplier shall deliver the Products and/or Services in accordance with the Agreement and Purchase Order, to the location(s) specified by DE MARO, on the delivery date and at the delivery time specified by DE MARO and in accordance with DE MARO's guidelines. Delivery shall be at the Supplier's risk.
- 6.2 Delivery of the Products by the Supplier to DE MARO shall be deemed to have taken place if an authorised person has signed for receipt of the Products on behalf of DE MARO.
- 6.3 Acceptance of the Products by DE MARO shall only qualify as delivery, but shall not imply acceptance of the Products either in terms of quantity or quality.
- 6.4 The delivery date and time when the Products must be delivered to DE MARO by the Supplier are final deadlines. If the Supplier exceeds such deadlines, the Supplier shall be in default and DE MARO shall be entitled to terminate the Purchase Order in whole or in part, without prejudice to DE MARO's other rights against the Supplier. In addition, the Supplier shall forfeit a penalty of €1,000 per violation and € 500 per day for as long as the violation continues.
- 6.5 Unless agreed otherwise in writing, the Supplier shall not be entitled to make partial deliveries. If partial deliveries have been agreed upon, Delivery shall, for the purposes of these Purchase Conditions, also be understood to mean a partial delivery.
- 6.6 The Supplier shall not be entitled to suspend its obligations towards DE MARO.

- 6.7 Nor may the Supplier assign the Delivery in whole or in part to third parties without DE MARO's prior written consent.
- 6.8 The Supplier shall not be allowed to use (hired) workers assigned by third parties without DE MARO's prior written consent.
- 6.9 The Supplier shall, at DE MARO's first request, provide the Delivery specifications within two (2) working days after the aforementioned request.
- 6.10 DE MARO may perform an audit (or have an audit performed) at the Supplier's premises in order to check the quality of the Supplier's production process, which shall at least comply with the statutory requirements to be set on it. The Supplier shall cooperate with this audit without delay by providing all information and/or written documents which are necessary for the audit in DE MARO's opinion and by granting access to the Supplier's premises.
- 6.11 Ownership and risk of the Products shall transfer to DE MARO at the moment of Delivery, unless agreed otherwise in writing or unless the Product is rejected by DE MARO during or after Delivery.
- 6.12 The Supplier guarantees that DE MARO will acquire the unencumbered ownership of Products.
- 6.13 The Supplier waives all rights and powers which are vested in it by virtue of the right of retention or the right of recovery or retention of title.

## **7. INTELLECTUAL PROPERTY**

- 7.1 The Supplier guarantees that the purchase, sale and/or Delivery and any other use of the Products and/or Services do not infringe any intellectual property rights of itself, its affiliated companies or third parties. In this Article, intellectual property rights shall mean all rights to and related to the Products and/or Services, including copyrights, trademark rights, patent rights, design rights and database rights and rights to know-how and recipes, including equivalent rights.
- 7.2 The Supplier shall indemnify DE MARO against all costs and loss arising from third-party claims based on the assertion that a Product (including its packaging) and/or Service infringes an intellectual property right of that third party. DE MARO will inform the Supplier of an alleged infringement without delay and the Supplier will be responsible for handling the case, including reaching any settlements, and all costs related to this.
- 7.3 If third parties claim intellectual property rights in respect of Products and/or Services, the Supplier will inform DE MARO of this in writing without delay. If indicated by DE MARO, it is authorised to handle such claims to the exclusion of the Supplier, including reaching any settlements. The Supplier will provide all necessary assistance in this and follow DE MARO's instructions carefully.

## **8. CONFIDENTIALITY**

- 8.1 Subject to a contractual penalty of € 100,000 per violation and without prejudice to the possibility of DE MARO to recover all loss suffered and yet to be suffered by it from the Supplier, the Supplier shall keep confidential and not disclose to third parties any information and data which it obtains from DE MARO under the Agreement and/or which DE MARO allows the Supplier to inspect, directly or indirectly, knowingly or unknowingly, in any way or in any form whatsoever, unless such data are generally known, or their disclosure is required by the law, on the basis of other regulations or as a result of a court decision.
- 8.2 Confidentiality means that the Supplier is not allowed to disclose the data in any way orally, in writing, digitally or in any other way whatsoever, including directly or indirectly, irrespective of whether the data were disclosed for that purpose, without the express, prior, written approval of DE MARO.
- 8.3 The Supplier undertakes towards DE MARO and all companies affiliated with DE MARO (including parent, sister and subsidiary companies) to also impose the obligation of confidentiality on all its affiliated companies (including parent, sister

- and subsidiary companies) and natural persons, including employees.
- 8.4 The Supplier does not have the right to use the data for purposes other than the purpose for which the data were provided and only insofar as the use of the data is necessary in this connection.
- 8.5 The provisions of this Article also remain in force after every relationship between DE MARO and the Supplier has ended.

## **9. TERMINATION OF THE AGREEMENT**

- 9.1 DE MARO may terminate the Agreement in whole or in part with immediate effect, without observing a notice period or without being liable to compensate the Supplier for any costs or loss, if:
- a) there are any circumstances which may reasonably cause DE MARO to doubt whether the Supplier can continue to properly perform its obligations towards DE MARO;
  - b) DE MARO is faced with a strongly reduced demand for one or more Products and/or Services as a result of fear (whether justified or not) of health risks or other damage to the reputation of the Supplier or one or more Products and/or Services and this reduced demand continues for at least two (2) weeks;
  - c) the Supplier has applied for or has been granted a moratorium;
  - d) the Supplier has filed a winding-up petition or has been put into liquidation;
  - e) the Supplier discontinues, liquidates or dissolves its business;
  - f) the legal or actual control of the Supplier's company is transferred (a change of control).
- 9.2 If at any time the Agreement qualifies as a continuing performance contract, DE MARO will be entitled to terminate the Agreement subject to two (2) months' notice and the Supplier will be entitled to terminate the Agreement subject to six (6) months' notice.
- 9.3 If the Supplier is prevented by force majeure from fulfilling the Agreement in time, in full or properly for more than fourteen (14) days, DE MARO will be entitled to terminate the relevant part of the Agreement in full or for the part not yet performed, without any notice of default or judicial intervention being required and without being obliged to compensate the Supplier for any costs or loss. Force majeure on the part of the Supplier shall in any case not apply in the event of lack of personnel, strikes, illness among personnel, late deliveries by suppliers, unexpected price increases, rejected raw materials/ingredients required in the production process or a shortcoming on the part of a third party towards the Supplier.
- 9.4 If the Agreement is terminated, in whatever manner or for whatever reason, all of DE MARO's claims against the Supplier will become immediately due and payable.

## **10. PERSONAL DATA**

- 10.1 If and to the extent that the Supplier obtains personal data for the benefit of DE MARO in the performance of its obligations under the Agreement, such personal data shall at all times remain the property of DE MARO. The Supplier shall only have the right to process the personal data for the performance of the Agreement or Purchase Order and shall never claim any right with regard to such personal data.
- 10.2 The Supplier guarantees that it will fully comply with all obligations laid down in the GDPR or any other laws and regulations applicable to the processing of personal data. It also guarantees that it has implemented appropriate technical and organisational measures to secure the personal data against loss or against any form of unlawful processing. Taking into account the state of the art, these measures guarantee an appropriate level of security and are also aimed at preventing unnecessary further processing of the personal data.
- 10.3 The Supplier shall always provide all cooperation and information necessary for DE MARO to fulfil its obligations under the GDPR. In this context, the Supplier shall always comply in a timely manner with DE MARO's instructions or

requests.

- 10.4 In the event of (i) unauthorised access, processing, deletion, mutilation, loss or any form of unlawful processing of the personal data or (ii) an incident that may lead to unlawful processing, the Supplier shall notify DE MARO of this in writing immediately, but no later than 24 hours after the discovery thereof. In doing so, the Supplier shall provide all relevant information regarding the nature of the incident, the risk that data have been or may be processed unlawfully and the measures that have been or will be taken to resolve the incident or to limit the consequences/damage as much as possible.

## **11. NON-ATTRIBUTABLE FAILURE (FORCE MAJEURE)**

- 11.1. In the event of force majeure, DE MARO shall be entitled to suspend the performance of the agreement or to terminate the agreement in whole or in part without judicial intervention, without the Other Party being entitled to any compensation for that reason.
- 11.2. Circumstances which constitute force majeure shall in any case be understood to include: restrictive government measures of any kind, fire, epidemics, mobilisation, war, revolution, strike, riots, seizure, interruption of production, lack of raw materials and/or semi-manufactured products and auxiliary materials and/or energy, natural disasters, transport disruptions, full or partial default on the part of suppliers and any circumstance that is not for the account of DE MARO pursuant to the law, a juridical act or generally accepted practice, such as circumstances unforeseeable by DE MARO or beyond its control.
- 11.3. If a situation of force majeure arises, DE MARO will notify the Other Party of this without delay.

## **12. GOVERNING LAW AND DISPUTES**

- 12.1 All disputes arising from or related to any Offer, the Agreement, a Purchase Order as well as any resulting or related non-contractual obligations shall be governed by Dutch law.
- 12.2 The United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- 12.3 To the exclusion of any other court, the District Court Zeeland-West-Brabant, Breda location, shall be exclusively competent to hear the dispute(s). DE MARO shall be at liberty to have the dispute heard by another court which has jurisdiction according to general statutory rules governing jurisdiction.

## **13. LOCATION, AMENDMENT OF CONDITIONS**

- 13.1 These Purchase Conditions have been filed with the Chamber of Commerce under number \*\*\*.
- 13.2 The applicable version will always be the most recently filed version or the version applicable at the time when the legal relationship between DE MARO and the Supplier was established. DE MARO is entitled to amend its Purchase Conditions unilaterally.
- 13.3 The Dutch text of the Purchase Conditions shall always be decisive for the interpretation of the conditions.

## **14. FINAL PROVISIONS**

- 14.1 Even after the relationship between DE MARO and the Supplier ends, the provisions of the Purchase Conditions that by their nature are intended to be valid even after the relationship has ended will remain in force.
- 14.2 If any provision of the Purchase Conditions or an Agreement concluded between the parties is void or voided, or cannot otherwise be invoked effectively, the remaining provisions will remain in full force and the parties will act in respect of the affected provision to the extent possible within the limits of the law, with due observance of the purpose and scope of the said provision.