



## **GENERAL TERMS AND CONDITIONS (SALES)**

### **Article 1: General**

- 1.1 In these terms and conditions, the following terms are to be understood as follows:
- 'Dalco': the private limited liability companies: Dalco Food B.V., with registered offices in Oss, and office address at the Sweelinckstraat 8;
  - 'Buyer': each juridical or natural person which has entered into or wishes to enter into an Agreement with Dalco;
  - 'Agreement': all Agreements between Dalco and the Client regarding goods or services purchased by the Buyer from Dalco, as well as all related (legal) activities.
- 1.2 These terms and conditions apply to all offers and quotes of, agreements with, as well as deliveries, services and other activities carried out by Dalco. Any provisions that deviate from these terms are explicitly rejected, unless otherwise agreed in writing.
- 1.3 On entering into an Agreement with Dalco, the Buyer shall waive the right to apply its own terms and conditions. Even in the event that the Buyer's terms and conditions contain a provision similar to the one in the previous sentence, the terms and conditions of Dalco at all times prevail over any similar terms and conditions of the counterparty.
- 1.4 The Agreement also includes the most recent version of the Incoterms, applicable at the time of the signing of the Agreement. If and insofar as the Agreement or these terms and conditions differ from those (most recent) Incoterms, the arrangements made between the parties in the Agreement and/or these terms and conditions prevail.

### **Article 2: Quotation**

- 2.1 A quotation by Dalco is always free of obligations, unless other agreements have been made in writing, and can be changed or revoked by Dalco at all times. If a quotation is accepted by the Buyer, Dalco has the right to withdraw the offer within seven days of receipt of the acceptance, in which case no Agreement is reached.
- 2.2 If an Agreement is reached between Dalco and the Buyer, because the Buyer has accepted a quotation submitted by Dalco, and Dalco has confirmed this in writing or has already started implementation thereof, the content of the Agreement is solely determined by the text of that quotation and these terms and conditions (part thereof or applicable thereto).
- 2.3 Changes in an Agreement after establishment will only be effective when and to the extent agreed in writing or expressly confirmed by Dalco.

### **Article 3: Rates**

- 3.1 Prices as specified by Dalco in the quotation or Agreement, unless otherwise stated, are expressed in Euros, excluding VAT and other government levies.
- 3.2 Dalco retains the right to increase prices and rates for goods or services not yet delivered/paid as a result of changes in factors affecting prices, if three months have passed after the establishment of the Agreement. Dalco retains the right to pass on increases in taxes to the Buyer.

### **Article 4: Transportation/Shipping**

- 4.1 Unless otherwise agreed, the transport/shipping by Dalco is ex works (Dalco factory). As a result, the transport/shipping will be at the expense of the Buyer, unless otherwise agreed in writing.
- 4.2 In the case of transport/shipping outside Europe, the method in which this should be carried out will at all times be decided upon in mutual consultation between Dalco and the Buyer.

### **Article 5: Delivery**

- 5.1 The delivery times agreed or specified by Dalco are never to be regarded as firm dates, unless expressly agreed otherwise. On expiry of a term, the Buyer should first declare Dalco in default in writing. Dalco should then be given a reasonable period of time to still fulfil the Agreement. If after this notice of default, fulfilment of the specified activities or delivery of the specified goods does not take place, the Buyer retains the right to terminate the Agreement in writing.

- 5.2 Without written notice of termination, the Buyer is liable to its obligations. Delivery carried out later than agreed can never entitle the Buyer to claim compensation from Dalco, even after notice of default.
- 5.3 If it is agreed that the goods to be delivered by Dalco to the Buyer are required to be called upon within a set time by the Buyer, and the Buyer is in default in this requirement, Dalco retains the right to fully or partially terminate the Agreement, without notice of default or judicial intervention being required, to deliver the goods to the Buyer at its discretion, or to store the goods to be delivered at the expense and risk of the Buyer, which constitutes as Dalco of having fully complied with its obligations to deliver.
- 5.4 Dalco is authorized to make partial deliveries and thus to send partial invoices.

### **Article 6: Retention of title**

- 6.1 Goods delivered and/or to be delivered by Dalco, will at all times and exclusively remain the property of Dalco, until all claims by Dalco on the Buyer, for whatever reason, are paid in full, including any additional interest and costs.
- 6.2 If the Buyer does not fulfil all obligations under an Agreement with Dalco, or in the event of seizure, suspension of payments or bankruptcy, Dalco retains the right to take back the goods delivered, without notice of default being required, in which case the Agreement will be extrajudicially terminated, without prejudice to the rights to damages by Dalco. When Dalco is taking back goods, the Buyer is required to fully cooperate.
- 6.3 The Buyer shall immediately inform Dalco if the goods delivered by Dalco are subject to a garnishment order or third parties have put other legal measures in place in respect of the Buyer or the goods delivered by Dalco.
- 6.4 The Buyer is obliged to take out sufficient insurance for the goods for the duration of the retention of title against fire, explosion and water damage and theft. The Buyer is required to submit the relevant policies to Dalco on first request.
- 6.5 If the Buyer fails to fulfil his obligations towards Dalco or Dalco has good reason to fear that the Buyer will not fulfil these obligations, Dalco retains the right to take back the goods delivered under retention of title. The Buyer shall offer full cooperation to Dalco in this respect. All costs incurred by Dalco in this respect will be at the expense of the Buyer.

### **Article 7: Liability**

- 7.1 Dalco cannot be held liable for any damage incurred by the Customer or third parties as a result of any act and/or omission by Dalco and/or persons for whom Dalco is or could be responsible and/or as a result of the use of the goods supplied by Dalco.
- 7.2 Under all circumstances, Dalco's liability is limited to the value of the invoice of Dalco for the transaction that the damage results from or relates to, or otherwise the amount paid out by Dalco's insurance company in this specific case.
- 7.3 Dalco cannot be held liable for consequential damage, which shall therefore never be reimbursed by Dalco. By simply receiving the goods delivered by Dalco, subject to the following provisions of Article 8, the Buyer indemnifies Dalco against any claims of the Buyer and/or third parties to pay compensation, regardless of whether the damage is the result of assembly and/or production errors, or any other causes.
- 7.4 During the term of the Agreement, the Buyer shall be liable for damage caused to goods delivered by Dalco. If Dalco detects damage to any of its goods, the Buyer will receive an invoice, which will have to be paid immediately.

### **Article 8: Claims**

- 8.1 The Buyer is obliged check the goods delivered by Dalco for deficiencies and/or damages immediately upon delivery, or perform this check as soon as possible after the goods have been placed at the disposal of the Buyer by Dalco.



- 8.2 Any deficiencies and/or damages should be noted on the delivery note by the Buyer, in the absence of which the Buyer shall be deemed to have accepted the delivery in good condition.
- 8.3 Any complaint must be in possession of/submitted to Dalco by registered letter no later than five working days after delivery.
- 8.4 Proof that the goods delivered do not comply with the Agreement is to be provided by the Buyer. If a complaint has been timely submitted and the goods delivered do not conform to the Agreement, Dalco shall at its own discretion and on return of the goods delivered either effect redelivery at no cost or credit the Buyer for the goods returned. Dalco is not held to further obligation, in particular not to any compensation.
- 8.5 By submitting a claim, the payment obligation of the Buyer in respect of the matter in dispute is not suspended.

#### **Article 9: Quality**

- 9.1 Dalco guarantees the soundness and the quality of the goods supplied, all this with due observance of the Dutch (veterinary) laws and regulations that specifically apply to the goods at the time of delivery of the relevant goods.
- 9.2 Warranty claims are not recognized if the Buyer did not follow the instructions for the use of the goods delivered by Dalco, if the goods delivered have been used for other than normal purposes or have been treated, used or stored in an incompetent manner by the Buyer, or if the goods delivered meet the specifications agreed between Dalco and the Buyer.

#### **Article 10: Payment and security**

- 10.1 Unless expressly agreed otherwise in writing, the invoices by Dalco have to be paid within thirty (30) days of the invoice date, in the currency in which the invoice is made up.
- 10.2 If the payment period is exceeded, the Buyer is deemed to be legally in default. The Buyer shall then pay the statutory commercial interest and all outstanding debts to Dalco are immediately payable by the Buyer. Dalco retains the right to set off all outstanding debts with any claims which the Buyer has on Dalco.
- 10.3 Dalco at all times retains the right to request full or partial prepayment for every delivery or partial delivery.
- 10.4 A claim regarding the goods delivered or an invoice does not suspend the payment obligation. The set-off of debt is never allowed.
- 10.5 If the Buyer is in default or does not fulfil his obligations (in a timely manner), all reasonable costs incurred to obtain payment outside of court are at the expense of the Buyer. These extrajudicial collection costs amount to at least 15% of the amount the Buyer still owes Dalco, with a minimum of €250.00. If however, Dalco has incurred higher expenses for collection, which were reasonably necessary, the actual costs incurred are eligible for reimbursement.
- 10.6 The Buyer shall provide Dalco – primary or additional – security for the payment by the Buyer of the amounts payable to Dalco on first request. If Dalco has justifiable reason to fear that the Buyer will not be able to fulfil his financial obligations to Dalco and the Buyer does not provide any security to that purpose, Dalco retains the right to suspend the implementation of the Agreement, without prejudice to any legal rights to suspension.

#### **Article 11: Suspension and termination**

- 11.1 If the Buyer does not properly or timely comply with any obligation arising from the Agreement, or in the case of bankruptcy, suspension of payments, as well as in cases where the Buyer loses the authority over or can no longer dispose of his capital as a result of an attachment order or other measures, Dalco retains the right to immediately terminate the Agreement with immediate effect, without prejudice to any rights to compensation for the damage suffered, or to suspend the further implementation of the Agreement, without being held to any payment.

- 11.2 Any costs incurred or damage suffered by Dalco as a result of a termination, including but not limited to lost profits, are at the expense of the Buyer.

#### **Article 12: Force Majeure**

- 12.1 In the event that Dalco is prevented from fulfilling the agreement as a result of a Force Majeure, Dalco retains the right to suspend the implementation of the Agreement without judicial intervention or to terminate the Agreement in full or in part, to be decided by Dalco, without Dalco being held to the payment of damages or guarantees.
- 12.2 With regard to Dalco, Force Majeure is defined in these terms and conditions as: any circumstance, both foreseen and unforeseen, as a result of which the performance of the Agreement cannot reasonably be required by the Buyer, including but not limited to: war, sabotage, insurrection, riot or other unrest, acts of a hostile state, transport disruptions, strike, accidents, fire, explosion, storm and other natural disasters, lack of labour, lack of fuel, technical failures, devaluation and inflation, as well as impeding government measures, such as sudden raise in import and excise duties and/or taxes and delayed or absence of delivery by manufacturer.

#### **Article 13: Intellectual and/or industrial property**

- 13.1 All intellectual and/or industrial property rights in respect of the goods delivered or to be delivered to the Buyer by Dalco are solely vested in Dalco. The Agreement does not comprise a transfer or license of a property right vested in Dalco.
- 13.2 The Buyer is liable and only entitled to trade the goods purchased from Dalco, taking into account the logo/trademark, trade name and the specifications under which the goods are delivered to the Buyer. The Buyer is not authorized nor entitled to alter the state of the goods delivered by Dalco (which includes labelling, imprint and instructions).
- 13.2 Dalco retains the right to use the knowledge gained on its part by fulfilling the agreement for other purposes, provided that no confidential information of the Buyer will be made available to third parties.
- 13.3 All knowledge and intellectual property rights developed by Dalco as a result of the implementation of the Agreement, is owned by Dalco insofar as it does not already belong to third parties. This includes, amongst others, recipes (insofar as not developed by the Buyer), methods of preparation, equipment to be used and the settings of that equipment.

#### **Article 14: Stockholding obligation and purchasing obligation**

- 14.1 If the Buyer requires Dalco to keep goods in stock, the Buyer is obliged to purchase this stock if the Agreement ends. The Buyer shall, within one month of the end of the Agreement, purchase the stock at the sales price of this stock.

#### **Article 15: Transfer**

- 15.1 The rights and obligations of the Buyer under the Agreement or these conditions are not transferable, unless the parties agree otherwise in writing.
- 15.2 In turn, Dalco retains the right to at any time transfer its obligations under the Agreement to a third party, but not before notifying the Buyer of this fact.

#### **Article 16: Privacy**

- 16.1 The Parties undertake to act in accordance with the legislation on the protection of Personal Data.
- 16.2 Dalco will keep the Client's Personal Data confidential and will also oblige the employees and any sub-processors to maintain confidentiality. If passing-on is necessary for the delivery of the Agreement, Dalco will do so.
- 16.3 If the Agreement is terminated, Dalco will transfer the Personal Data a provided OR back to the Client or, if the Client so requests, will destroy the Client's data. If Dalco is obliged to store Personal Data in accordance with legislation or regulations, Dalco will keep a copy.



- 16.4 Without the Client's consent, Dalco is not entitled to use the information made available to him by the Client for any other purpose than that for which it was obtained. However, an exception is made in the event that Dalco acts on its own behalf in disciplinary, civil or criminal proceedings in which this information may be relevant.
- 16.5 Once Dalco has obtained explicit consent, Dalco is entitled to send a newsletter to the Client. The Client is then entitled to withdraw consent at any time.
- 16.6 Dalco will not store Personal Data for longer than is strictly necessary for the purposes of the Agreement. Dalco is obliged, inter alia, to store emails relating that relate to the operational management and the sales administration for a period of 7 years.

#### **Article 17: The obligation to report data leaks**

- 17.1 Dalco and the Client will act in accordance with the GDPR, the Policy rules on the obligation to report data leaks of the Dutch Data Protection Authority to determine whether there has been a data leak.
- 17.2 A data leak is understood to mean: all security incidents as a result of which the protection of Personal Data has been compromised at any time or by which Personal Data has been exposed to loss or unlawful processing. This may involve the loss of a computer or USB stick, sending an email of which the email addresses are visible to all recipients, a calamitous situation such as a fire in a data centre or a malware infection.
- 17.3 Dalco will not issue any notifications to the Dutch Data Protection Authority in its capacity as a processor. In this case, the Client is the data controller and is responsible for the data of its employees and, if it has become aware of a data leak, it must report this immediately, where possible within 72 hours, to the Dutch Data Protection Authority. If this is not possible, an explanation must be given for the delay to the Dutch Data Protection Authority.
- 17.4 If it appears that Dalco has had a data leak, this must be reported to the Dutch Data Protection Authority by the Client and/or the party or parties involved, Dalco will inform the Client of this as soon as possible after Dalco becomes aware of the data leak. Dalco will immediately attempt to provide the Client with all information needed to make a comprehensive report to the Dutch Data Protection Authority and/or the party or parties involved.

#### **Article 18: Processor agreement**

- 18.1 Dalco's primary objective is to supply and purchase products and/or raw materials. Therefore, Dalco is not obliged to conclude a processor agreement with its Clients.
- 18.2 Dalco will take appropriate technical and organisational measures to protect the Personal Data of the Client against unlawful processing or loss.
- 18.3 In consultation with Dalco, the Client is entitled to check compliance with the protection of Personal Data during the term of the Agreement through an independent expert. The Client will bear all costs in connection with this inspection.
- 18.4 Dalco may commission third parties to carry out certain work; for example, should these third parties have specialist knowledge or resources that Dalco does not have at its disposal. If the involvement results in the processing of Personal Data, Dalco will make written agreements with those third parties. By entering into an agreement with Dalco, the Client consents to the engagement of these third parties.
- 18.5 Dalco will only process Personal Data within the European Economic Area, unless Dalco has made other written agreements to this effect with the Client.
- 18.6 The Parties will each be responsible and liable for their own actions with regard to Personal Data. The liability clause of Article 7 also applies to the processing of Personal Data.

#### **Article 19: Disputes and applicable law**

- 19.1 All quotations submitted by Dalco or agreements entered into by Dalco are solely subject to Dutch law.

- 19.2 Any disputes concerning the establishment, interpretation or implementation of an Agreement entered into by Dalco and the Buyer, and any other disputes in connection with this Agreement, shall solely be brought before the competent judge of the District Court of Oost-Brabant in 's- Hertogenbosch.

#### **Article 20: Final clause**

- 20.1 The Dutch text of these terms and conditions is leading and is the only authentic text. In the event of a discrepancy between the Dutch text and a translation into a foreign language, the Dutch text shall prevail.