



## PROVISIONS' GENERAL TERMS AND CONDITIONS FOR SALE

### 1 Applicability

1.1 These terms and conditions shall apply to each sale and all agreements or contracts for the sale of goods made by or entered into by or on behalf of Provisions BV ("Provisions"), with registered office at 8000 Bruges, Scheepsdalelaan 18, with company number 0763351792.

1.2 Any terms and conditions proposed by you or which you may purport to apply under any purchase order or confirmation of order, or which are implied by trade, custom, practice or course of dealing, are expressly excluded and may only apply if, for each individual matter, Provisions has expressly accepted them in writing.

### 2 Order – Delivery – Acceptance

2.1 All orders shall be deemed to be an offer by you to purchase goods pursuant to these terms of sale. No order shall be binding on Provisions until it is accepted over the telephone or by electronic communication by one of our authorised representatives or confirmed by us in writing.

2.2 Time of delivery shall not be of the essence and Provisions shall not be liable for any loss or damage whatsoever arising as a result of failure to deliver goods by any particular date provided that Provisions uses reasonable endeavours to deliver the goods within a reasonable timescale.

2.3 Provisions may deliver the goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery in an instalment shall not entitle you to cancel any other instalment. We do not sell goods on a "sale or return" basis, unless specifically agreed with you in writing.

2.4 Unless explicitly agreed otherwise, delivery shall be on an EXW basis, incoterms 2020. This also applies where Provisions task a freight forwarding company with the transporting the goods at your request, expense and risk. In such case, Provisions shall assign any compensation claims to which it is entitled against the freight forwarding company to you.

2.5 In the event that we have specifically agreed with you that you will collect the goods, you will collect the goods from the location and time specified by Provisions and, in such case delivery in respect of any product is completed at the arrival of the relevant product at the delivery location.

2.6 Provisions reserves the right to make an additional charge if you request any unscheduled delivery.

2.7 If you refuse to accept a delivery, for whatever reason, Provisions reserves the right to charge you all transport costs, storage costs, and in addition a reasonable administration charge and any other claim we may have, and we may resell or otherwise dispose of all or part of the goods.

2.8 Acceptance of delivery, or collection, of the goods (as the case may be) shall be deemed conclusive evidence of your acceptance of these terms of sale.

2.9 If we agree to supply you with goods upon which excise duty (or other duties or taxes) has not been paid, it will be on the strict condition that you comply with all legislation and procedures (whether legally binding or not) relating to excise duty suspension or such other regime as may be applicable, including receipting the goods in the Excise Movement and Control System within 5 business days of delivery of the relevant goods to you. You will keep Provisions fully indemnified at all times on demand against any assessments, claims, demands, losses, liabilities or expenses which Provisions incurs as a result of any failure by you to fulfil your obligations under such legislation or procedures. Provisions shall not be obliged to provide you with any certificate or similar relating to payment of excise duty on any delivery. The duty status shall be shown on the delivery note in question, a copy of which should be retained for your records.

### 3 Storage, Handling and Resale of Goods.

3.1 You shall take all reasonable steps, and shall use your reasonable endeavours to procure that your own customers take all reasonable steps, to

preserve the quality of the goods and any bottles, cases, canisters, kegs, casks, crates, pallets or other containers and packaging ("containers") from the time of delivery until dispensed to the ultimate consumer.

3.2 You shall co-operate fully with Provisions in the event of a recall of the goods, containers or equipment and you shall provide such co-operation and assistance as Provisions may reasonably request in order to comply with applicable legal requirements relating to the goods, containers or equipment or any part of them.

### 4 Prices

4.1 Subject to condition 4.3, the prices charged for goods will be those applied by Provisions on the date of acceptance of your order. All prices quoted are exclusive of Value Added Tax unless otherwise stated. VAT shall be payable by you at the prevailing rate, subject to receipt of a valid VAT invoice from us.

4.2 Unless otherwise stated, all offers and prices are submitted on an EXW basis, incoterms 2020, excluding packaging, insurance and transportation.

4.3 Any increases in rates of duty or other taxes, or any third party product price increases, will be passed on immediately in full. In the event of any such change, orders accepted but not delivered at the date of such change will be fulfilled at the revised prices.

4.4 The prices quoted for goods are exclusive of carriage (unless expressly agreed to and stated as otherwise). We reserve the right to charge for any deliveries which Provisions believe (acting reasonably) cost significantly more than our average cost to deliver.

### 5 Payment

5.1 You shall make payment to Provisions in cleared funds within such period or on such date as Provisions shall specify to you from time to time ("due date"). If Provisions do not give you a specific date then payment shall be due within 30 days of the date of invoice.

5.2 Failure to pay any amount due to Provisions by the due date, or any circumstances which gives Provisions reasonable concerns about your solvency, shall entitle Provisions to suspend delivery of any undelivered orders. The time for payment for the goods shall be of the essence. Provisions reserves the right at any time, at our sole discretion, to amend or withdraw any or all of the (i) payment terms, and (ii) method of payment.

5.3 The amount of each invoice that is not or not entirely paid on the due date will automatically and without prior notice of default be increased with (i) an interest equal to 1% per month of non-payment, where each current month will be considered as having expired, and (ii) lump-sum damages at a rate of 8% of the amount of the as yet unpaid invoices. Provisions is also entitled to charge the costs of the notice of default and reminder.

5.4 In the absence of a payment on the due date of one or more invoices, all outstanding but not yet payable invoices automatically and without prior notice of default become payable by you. You are not allowed to offset Provisions invoices with its own invoices for or claims on Provisions.

## **6 Risk and Retention of Title**

6.1 Risk of damage to or loss of the goods, containers and equipment shall pass to you pursuant to the applicable incoterms.

6.2 Title to the goods shall pass to you only when Provisions received from you payment (in cleared funds) of all amounts owing in respect of these goods.

6.3 Until title to the goods passes to you, you shall (i) hold the goods as our fiduciary agent and bailee, (ii) keep the goods separate from your own goods and third party goods; and the goods shall be properly stored, protected and insured against all risks on Provisions behalf from the date of delivery (for an amount which is not less than the price payable to us) and identified as our property.

6.4 You shall be entitled to resell or use the goods in the ordinary course of your business, (provided such sale shall be on your own behalf and you shall deal as principal and not as our agent) and, in such event, title to the goods shall pass to

you immediately before the time such resale occurs, notwithstanding that the payment is still due.

6.5 Until title to the goods passes to you (and provided the goods are still in existence and have not been resold), Provisions may require you to deliver the goods to us in the event that you fail to make payment to us under these terms of sale or Provisions reasonable concerns about your solvency. If you fail to do so, Provisions (or our representatives) may enter your premises or any third party premises where the goods are stored and repossess the goods and Provisions (or our subcontractors) may do this at any time in order to repossess the returnable containers.

6.6 You shall not be entitled to (nor purport to) sell mortgage, encumber, part with possession of, pledge or charge by way of security any of the goods, containers or equipment which remain Provisions' property or allow any lien or encumbrance to arise over them. If you do so or purport to do so, all money owing by you to Provisions shall become immediately due and payable, and Provisions shall have the right to recover its goods, containers and equipment.

## **7 Claims**

Upon delivery or collection (as the case may be), all goods should be examined and signed for with a clear signature and any loss or damages entered upon the delivery note (or equivalent confirmation of goods collected) and, where goods are delivered, the carriers notified in writing on the same day. Provisions shall be entitled to treat any signature obtained in good faith as binding you. Claims cannot be entertained once goods have been signed for (unless the damage was not apparent until sampling). In respect of the non-delivery or non-collection of goods for which an invoice has been raised, any claim must be made in writing to Provisions within five days of the date of the invoice. Any claim in respect of incorrect pricing must be made in writing to Provisions within fourteen days of the date of the invoice.

## **8 Liability**

8.1 Provisions does not exclude any liability to you in respect of (i) death or personal injury caused by Provisions'

negligence, (ii) fraud or fraudulent misrepresentation, (iii) anything else that cannot be excluded by the operation of law.

8.2 Subject to clause 8.1, Provisions shall under no circumstances whatsoever be liable to you (whether in contract, tort (including negligence), breach of statutory duty, or otherwise) for: (i) any loss of profit; (ii) loss of business or business opportunity; (iii) loss of revenue; (iv) loss of anticipated savings; (v) or any indirect or consequential losses of any nature, howsoever arising, arising under or in connection with these terms of sale or any contract Provisions may have with you.

8.3 Subject to conditions 8.1 and 8.2 Provisions' total aggregate liability to you in respect of all other losses arising under or in connection with these terms of sale and any contract Provisions may have with you, whether arising in contract, tort (including negligence), breach of statutory duty, or otherwise shall be limited to the purchase price of the goods covered by the relevant order.

8.4 Provisions shall not be liable to you or be deemed to be in breach of these terms of sale or any contract Provisions may have with you by reason of any delay in performing, or any failure to perform, any of our obligations, if the delay or failure was due to any cause beyond our reasonable control or due to your fault. This includes strikes, lock-outs or other industrial actions or trade disputes, adverse weather conditions, default or delays of suppliers or subcontractors, breakdown of plant or equipment, and material shortages.

8.5 There are no conditions, warranties, representations or terms, express or implied, that are binding on Provisions except as specifically stated in these terms of sale or any contract we may have with you. Any condition, warranty, representation or term concerning the goods which might otherwise be implied into or incorporated in these terms of sale or any contract we may have with you, whether by statute, common law or otherwise, is hereby expressly excluded.

8.6 You shall indemnify Provisions against any third party claims, losses, damages, expenses and costs Provisions incurs as a result of your negligence or any breach by you of these terms of sale

or any contract Provisions may have with you.

## **9 Pledge and retention right**

Insofar as not expressly prohibited by the law of the country where this pledge/retention right is exercised, Provisions will be allowed to exercise a pledge and/or retention right on all materials and/or sold goods and it shall cover all claims on you, for whatever cause.

9.1 The execution of the pledge will, at the discretion of Provisions, be realised by public sale, private sale, lease or appropriation. These will serve as collateral on both the principal, the interest, the compensation clause and possible costs.

9.2 Insofar as the previous provision were to be excluded by national law of the country where the goods are located, Provisions will at least be able to exercise a pledge/retention right according to the conditions of this applicable law.

## **10 Set-Off**

10.1 Notwithstanding any insolvency, any transfer of debts, any form of seizure and notwithstanding any concursus creditorum, Provisions will be able to apply a set-off or debt novation to the claims Provisions has concerning its creditors or you, and that the latter have on Provisions.

10.2 This right shall not be impaired in any way by notice or service of any insolvency, transfer of debt, any form of seizure or any concursus creditorum.

10.3 The claims listed in clause 10.1 should be interpreted as any claim and any liability a party may have vis-à-vis the other, either contractually or extra-contractually, either pecuniary or otherwise, including obligations of payment or delivery, each debt, each liability arising from a guarantee, each obligation to provide or retain collateral and each other obligation or requirement.

## **11 Export controls**

11.1 Provisions' goods are supplied with the provision that their delivery is not impeded by national or international regulations, especially export control regulations such as embargos or other sanctions.

11.2 You commit to not selling the goods to third parties of whom you have reason to assume will disregard such regulations or circumvent them. Upon request, you must provide Provisions, without delay, all required information, especially as regards the final recipient, final destination and end-use of the goods.

11.3 You represent and warrant to be in possession of the required authorisations for importing, trading or selling of the goods. In the case of re-selling/transfer of the goods, you commits to making your customer aware of all export-related regulations and to passing on all obligations resulting therefrom. On request, you commit to issuing an end-use certificate and to sending the original to us, in order to enable us to prove the end-use and intended purpose.

11.4 Provisions' offers, order confirmations, and the contract, as well as the fulfilment thereof, are subject to Provisions obtaining all required export or transfer licenses, or any other permits in connection with export regulations or releases from the relevant authorities, and to there not being other legal obstacles in connection with export regulations that Provisions, as exporters or shipper, or any of Provisions' suppliers, must adhere to.

11.5 Unless explicitly agreed otherwise, the risks and costs associated with (not) obtaining any required export and/import permits shall be for the account of you. This shall also apply should Provisions support you, at the latter's request, in obtaining such permits.

11.6 Should we agree in an individual case that the risk association with (not) obtaining any required export and/or import permits are for the account of Provisions, the following shall apply: (i) in the case of material or financial loss or damage caused by simple negligence, the amount of Provisions liability shall be limited pursuant to clause 8.3. (ii) you undertake to provide Provisions without undue delay with full and accurate information necessary for applying and obtaining the required export and/or import permits. (iii) you undertake to comply with regulations imposed by the authorities in connection with obtaining any required export and/or import permits. (iv) you indemnify Provisions against any and all claims from third parties arising from the

culpable breach by you of these obligations.

## **12 Customs Formalities**

12.1 If requested, you shall provide Provisions with all supporting documents and information, including but not limited to commercial and shipping information, certificates, waybills, packing list, manifests, to timely, entirely, and accurately process and complete customs and excise formalities required by the law and/or customs and excise authorities.

12.2 You represent and warrant that all the provided information and documents are complete, adequate, correct, and sufficient to perform the customs and excise formalities under the law.

12.3 If necessary, you shall provide, upon first request and at its choice, sufficient provisions and/or guarantees, to cover all forms of taxes, including, but not limited to duties, levies, excise, imposts, whether direct or indirect including, customs and excise duties, other import duties, value-added tax, including import VAT, packaging levy, monitoring charges, environmental taxes and any other type of taxes or duties in any relevant jurisdiction, in respect with the import, export, transit of goods, together with any interest, penalties, surcharges or fines relating thereto, due, payable, levied, imposed upon or claimed to be owed in any relevant jurisdiction and the payment thereof claimed or imposed by any customs and excise authority and/or the third party for, or in connection with the goods.

## **13 Waiver**

13.1 No failure or delay by either of us in exercising our rights or remedies under these terms of sale or any contract Provisions may have with you shall prevent or restrict the exercise of such rights or remedies at any time. No waiver (whether express or implied) by either of Provisions of any breach of any of these terms of sale or the terms of any contract Provisions may have with you by the other shall be construed as a waiver of any subsequent breach of the same or any other provision.

## **14 Third Party Rights**

Except as expressly provided in these terms of sale or any contract Provisions

may have with you, no third party shall have any rights under these terms of sale or any contract Provisions may have with you.

## 15 Compliance with Laws

15.1 In performing your obligations under these terms of sale or any contract Provisions may have with you, you shall comply with all applicable laws, statutes, regulations, from time to time in force, including law relating to anti-bribery, anti-slavery, anti-corruption and anti-facilitation of tax evasion.

## 16 Non-solicitation

16.1 You agree that you will not solicit or endeavour to entice away from Provisions or induce to trade on different terms any person who is or was a customer or supplier of any of Provisions.

16.2 The Parties recognise that irreparable harm would result from any breach of this Clause 16.1 and that monetary damages alone would not provide adequate relief for any such breach. Accordingly, in addition to any other remedy which may be available to Provisions, as applicable, including the indemnification undertakings set forth in this Clause 16.3, if you breach this restrictive covenant, the Parties acknowledge that Provisions, may seek injunctive relief in a court of competent jurisdiction to stop any such breach.

16.3 Each breach of you set out in this Clause **Error! Reference source not found.** will entitle Provisions to indemnification in cash from you for the thus caused damage, it being understood that (i) such damage will be deemed to amount to EUR 50.000 and, in addition, an amount of EUR 10.000 for each day such breach or infringement continues, without the need to serve notice on you or the need of a court order and that (ii) if the damage effectively suffered Provisions exceeds such amount, Provisions is entitled to claim from you concerned payment of such excess amount to indemnify the entire damage.

## 17 Termination

17.1 Provisions shall be entitled to terminate its trading relationship with you immediately, and without any court intervention, if you commit a material breach of any of these terms of sale or fail to pay

any amount due on or before the due date for payment, or on 30 days prior written notice for any other reason. In the event of the early termination of our trading relationship with you, Provisions reserves the right to recover any losses which it incurs as a result of such early termination, which losses shall include any loss of profit.

17.2 Notwithstanding clause 15.1, Provisions shall also be entitled to the right to sell the goods to a third party or get rid of them in some other way, including by means of destruction, at your expense and risk.

## 18 Promotion and marketing

18.1 You shall not use Provisions' names and/or brands in any promotion or marketing or announcement of orders, without having first obtained the prior written consent of Provisions.

## 19 Data protection

19.1 Parties agree to comply with all relevant data protection laws and regulations applicable to the framework of this Agreement, including the Regulation (EU) 2016/679.

19.2 The supplier agrees that Provisions is entitled to process personal information of or related to its officers or employees (each a "data subject") for the purposes of this Agreement. When the Supplier gives information to Provisions about its officers, and employees, it confirms that it has authority to act as their agent.

## 20 Miscellaneous

20.1 Any dispute arising out of the interpretation, the validity or the execution of a purchase order shall be submitted to the competent courts of Bruges, which shall have sole jurisdiction over the matter. The purchase order is governed by Belgian law and excluding CISG.