

**GENERAL TERMS OF SALE**

**OF**

**besloten vennootschap  
Sar Petfood B.V.**

**Slachthuisakade 22 a  
5626 DD Eindhoven**

**registration number chamber of commerce 52434966**

**JANUARY 2013**

## **ARTICLE 1: APPLICABILITY**

- a.** The terms hereinafter stated shall be applicable to all offers made by, orders accepted by and deliveries to third parties by Sar Petfood B.V., and to all operations executed by Sar Petfood B.V. by order of third parties, and also to all contracts in the broadest sense of the word concluded between Sar Petfood B.V. and third parties.
- b.** The present terms shall apply inside as well as outside the Netherlands, without regard to place of residence or business of the parties concerned in any agreement, and also without regard to the place where the agreement has been affected, or should have been implemented.
- c.** If buyer or customer uses purchase terms these shall have no binding force upon Sar Petfood B.V. as far as they deviate from the present terms of delivery. In which case the general terms of sale of Sar Petfood B.V. are applicable.
- d.** Possible deviations from the present terms, applied/accorded by Sar Petfood B.V. for the benefit of buyer's or customer's at any time shall never entitle the last-mentioned to appeal thereto afterwards or to claim the application of such a deviation as being incontestable for him/her.

## **ARTICLE 2: OFFERS**

- a.** All offers and price quotations shall be made without any engagement, unless expressly stipulated otherwise. They have been made by Sar Petfood B.V. in best of conscience and are based on data eventually submitted when inquiring.
- b.** Statements with regard to measure, capacity, performance colour, texture of material, finishing or resultants, provided by Sar Petfood B.V. in illustrations, website(s), catalogues, brochures, drawings, or in any other way, are deemed to have been provided by approximation and without engagement.  
Sar Petfood B.V. shall not be bound to this statement and consequently shall not be liable for any inaccuracies in these data.

## **ARTICLE 3: ORDERS/CONTRACTS**

- a.** By order is meant: every contract concluded with Sar Petfood B.V., irrespective of whether she undertakes to start activities, or to lend personnel, material or room, or to carry out any other performance, all this in the broadest sense.
- b.** All contracts concluded with Sar Petfood B.V. shall not become binding until after having been confirmed in writing by Sar Petfood B.V. or through Sar Petfood B.V. having begun the execution of the order. Possible supplements or deviations in the contracts referred to above shall be binding upon Sar Petfood B.V. only after and in so far as they have been accepted and confirmed in writing by Sar Petfood B.V.. Buyer/customer is deemed to have acknowledged supplements or deviations in the contracts concluded with Sar Petfood B.V., unless buyer/customer has objected to this supplement and/or deviation in writing within 8 days after he/she took or could have taken note of the supplement/deviation. Buyer/customer is deemed to have taken note of the said supplement/deviation the moment Sar Petfood B.V. shall have started the activities the supplement/deviation refers to. Only the board and possible he/she who has been explicitly authorised thereto by the board, can and is allowed to conclude contracts by order of Sar Petfood B.V..
- c.** Unless otherwise is explicitly agreed in writing, Sar Petfood B.V. shall at all times be entitled to have the order wholly or partially executed by third parties, in which case the present terms shall also apply in favour of these parties, on the condition though, that Sar Petfood B.V. shall authorise them in writing and if necessary afterwards, to appeal to the present terms, without this authorisation making it possible to create any obligations to Sar Petfood B.V..

#### **ARTICLE 4: LIABILITY**

**a.** Sar Petfood B.V. is with the exception of the provisions stated in article 9 of these general terms of sale, not liable in any way for damages, directly or indirectly, whether indirect the result of the delivered goods, services rendered or any other work done not meeting the contract requirements, unless it is due to malice or comparable guilt by herself.

Therefore Sar Petfood B.V. also doesn't accept this with serious calamities like fire, water damage and external calamities like wars and earthquakes.

**b.** When Sar Petfood B.V. is held liable for any other reason relating to the agreement, the compensation payable by her will always be limited to no more than the invoice amount (excluding V.A.T.) regarding the relating good and services with a maximum value of Euro 1.500,00 (in words fifteen hundred euro)

**c.** Any appeal to the present terms being made, buyer's or customer's obligation towards Sar Petfood B.V. to pay shall not be suspended.

#### **ARTICLE 5: TIME AND PLACE OF DELIVERY**

**a.** All delivery times stated in quotations, confirmations and contracts shall be considered as having been stated to the best knowledge and shall be complied with as far as possible, yet shall have no binding force upon Sar Petfood B.V..

**b.** Exceeding the times of delivery stated, irrespective of cause, shall never entitle buyer or customer to any damages, to rescission of the contract or to non-fulfilment of any obligations which derives from the contract in question or of any other contract whether or not related to the present contract.

**c.** In case of the delivery time being excessively overdue, such however to be judged by Sar Petfood B.V., Sar Petfood B.V. shall enter into further consultation with buyer or customer.

**d.** Delivery shall be effected ex company of Sar Petfood B.V. or ex any other place to be stipulated by Sar Petfood B.V..

**e.** In case goods, sold by or services, offered by Sar Petfood B.V., after having been presented to buyer or customer, shall be rejected by the same, they shall be at the disposal of buyer's or customer's during a period of three weeks. During that period goods shall be stored for account of buyer's or customer's. That period having expired, the total amount due on delivery or fulfilment and increased by any consequential costs and interests, can be claimed from buyer or customer, even if delivery of the goods or services in question should not have taken place. Payment shall in that case be considered as having been made as a compensation to Sar Petfood B.V..

**f.** If buyer or customer should not fulfil one or more obligations resulting from this or any other agreement related to the contract, or if he/she should not fulfil same by the time stipulated, Sar Petfood B.V. shall be entitled to delay the execution, after having declared buyer or customer to be in default in writing - without judicial intervention - without Sar Petfood B.V. being liable for any damages.

#### **ARTICLE 6: TRANSPORT AND TRANSPORT RISK**

**a.** The choice of means of transport shall be up to Sar Petfood B.V..

**c.** The transportation of the ordered goods at Sar Petfood B.V..shall be borne by buyer/customer.

**c.** All goods ordered from Sar Petfood B.V. shall travel at buyer's or customer's risk from the moment of forwarding. Also, in case free delivery should have been agreed buyer or customer shall be liable for any damage occurred during the transport.

**d.** The goods shall be exclusively delivered parterre (at the front door or any other entrance accepted by Sar Petfood B.V.). Should goods have to be delivered other than parterre, the supplementary costs and risks involved shall be fully for buyer's or customer's account. When buyer/customer is not present at the time of delivery, or is not capable to accept delivery of the goods, or otherwise remain in default to accept delivery of the goods, then Sar Petfood B.V. is entitled to convert the delivery into a duty by buyer customer to pick up the goods at an address provided by the transporter after leaving a written notice informing buyer/customer of it.

**e.** On arrival of the goods buyer or customer shall be obliged to convince himself of the condition of the goods. Should then appear that damage has been caused to goods or material, he/she shall be obliged to take all steps to obtain an indemnification from the transporter. By signing the receipt, supplied by or by order of Sar Petfood B.V., buyer/customer declares to have received the goods in good condition.

#### **ARTICLE 7: PRICES AND COSTS**

**a.** For each contract Sar Petfood B.V. states a separate price or rate. This price or rate only is referred to as being the amount due for activities to be effected by Sar Petfood B.V., including the costs generally involved. The prices stated in the quotation are based on the then current cost price factors, rates, wages taxes, duties, charges, freight, and so on. In case of an increase in any of these factors Sar Petfood B.V. is entitled to change the quoted (selling)price accordingly.

**b.** Consequently the price or rate does not cover taxes imposes by the government or other authorities, incorporated penalties, insurance premiums, etc.

**c.** Sar Petfood B.V. is entitled to require payments casu quo deposit or security (by means of a bank guarantee).

**d.** Sar Petfood B.V. is entitled to charge costs of dispatch for deliveries.

#### **ARTICLE 8: TERMS OF PAYMENT**

**a.** Unless expressly agreed otherwise in writing, payment of the invoices sent by Sar Petfood B.V. shall be made within 8 (eight) days after date of invoice, not incorporated deduction of discounts or any form of set-off.

**b.** Sar Petfood B.V. is entitled to charge a credit restriction surcharge of at least 2%, however this must explicitly be included in the invoice. This surcharge may be deducted from the invoice if the invoice amount is paid within 8 (eight) days after the date of the invoice.

**c.** All payments, not incorporated deduction or set-off, shall be made at the offices of Sar Petfood B.V. or by means of transfer to a banking or giro account specified by Sar Petfood B.V..

**d.** Discounts can only be given after mutual agreement between Sar Petfood B.V. and buyer/customer. Unless agreed in writing otherwise, discounts are deemed to be given only once. New transactions to be concluded, no appeal can be done to former discounts.

#### **ARTICLE 9: COMPLAINTS**

**a.** Complaints, if made, with regard to the delivery of the goods, as well as regarding services rendered or invoice-amounts, shall be lodged with Sar Petfood B.V. within eight days after receipt of the products or services or of the invoices concerned, in writing and registered, with a detailed specification of the facts the complaints refer to. Buyer or customer is not entitled to claim damages for goods manufactured by him or in his name. This applies equally to opened goods or with goods where the packaging has been damaged.

**b.** Complaints with regard to the conditions in the present terms, as among other things stated in the article 6:233 sub a of the Burgerlijk Wetboek (Civil Code) (nullity with regard to one or more conditions on the ground of being onerous beyond reason), should as well be lodged with Sar Petfood B.V. within eight days after reading the present terms or the moment by which these terms could reasonably have been read, in writing and registered with a detailed specification of the facts the complaints refer to. The right to lodge a complaint shall be due the moment the agreement has been made. The other party shall renounce to appeal afterwards to one or more of the conditions in the present terms as being onerous beyond reason, insofar as the conditions considered as being onerous beyond reason, if any, have not been made imperative by the law.

**c.** If complaints lodged do not comply with the foregoing, they can not be acknowledged anymore and buyer or customer shall be deemed to have agreed to the delivered and/or rendered. In case Sar Petfood B.V. is of the opinion that a complaint is well-grounded, she shall be entitled to either pay an amount -assessed by mutual agreement- as damages to buyer or customer, or to start another delivery, maintaining the present contract, such under the obligation of buyer's or customer's to return the by Sar Petfood B.V. faulty or defective delivered free domicile; all this at the option of Sar Petfood B.V..

**d.** Sar Petfood B.V. shall not be bound to take note of lodged complaint until buyer or customer concerned integrally fulfilled all his subsistent obligations resulting from any contract whatsoever and wherever they may consist of towards Sar Petfood B.V., at the moment of lodging his complaints.

**e.** Goods returned, not or insufficiently prepaid or packed, shall be refused by Sar Petfood B.V.. All goods shall be returned for account and risk of buyers' or customers'.

#### **ARTICLE 10: CANCELLATION/TERMINATION AND SUSPENSION**

**a.** If buyer or customer, even after being held in default by Sar Petfood B.V., is or remains in any respect in default of its obligations with respect to previous deliveries, work done or any other reasons Sar Petfood B.V. is entitled to suspend, her obligations to buyer or customer and or, without judicial intervention, cancel the underlying agreements wholly or partially. This without the ability of buyer or customer to held Sar Petfood B.V. liable any way and without prejudice the rights of Sar Petfood B.V..

Sar Petfood B.V. is also entitled to this if buyer or customer is bankrupt, moratorium of payment, debt restructuring, entry to the WSNP (legal form of debt restructuring), or any other form debt counselling, liquidation of the corporate form or business or the threat of those circumstances according to the standards of Sar Petfood B.V.. All claims of Sar Petfood B.V. against buyer or customer are then immediately due and payable.

**b.** If buyer or customer wants to dissolve or cancel the agreements with Sar Petfood B.V., then Sar Petfood B.V. is entitled to claim compliance of the agreements or at the discretion of Sar Petfood B.V. a cancelation fee of at least 30% of the retail price shall be payable by the buyer or customer.

#### **ARTICLE 11: INDEMNIFICATION IN CASE OF LATE OR NON-PAYMENT**

If payment of the invoices sent by Sar Petfood B.V. should not have been effected within 8 (eight) days after date of invoice, buyer or customer shall be deemed to be in default by right and Sar Petfood B.V. shall be entitled, without any further notice of default being required, to charge buyer or customer a statutory interest arrears with a minimum of 1% due per month or part of it, as per due date, without prejudice to, other rights Sar Petfood B.V. is entitled to, incorporated therein their right to claiming from buyer's or customer's any judicial and extra-judicial charges related to the recovery, these costs being beforehand fixed at 15 % of the amount to be claimed, with a minimum of Euro 150,00 (in words; one hundred and fifty euro).

NB: From the moment that the legislator has determined by law the extrajudicial collection costs charged to buyer/customer, the extrajudicial collection costs owed by Buyer customer are pursuant to its provisions.

## **ARTICLE 12: RESERVE OF OWNERSHIP**

- a.** Until such time as buyer or customer shall have paid to Sar Petfood B.V. the total amount due for the delivery of goods, parts, installations and/or activities performed in his favour by Sar Petfood B.V., the goods delivered to him and/or materials shall remain the incontestable property of Sar Petfood B.V., such for account and risk of buyer/customer concerned.
- b.** If buyer or customer should not fulfil one or more of his obligations referred to and in the agreement and with regard to the goods purchased and/or activities performed, Sar Petfood B.V. is liable to recover the goods or materials without any notice of default being required, in which case the agreement shall be cancelled without judicial intervention, without prejudice to the right of Sar Petfood B.V., if need be, to indemnification of damages whether or not by legal process, for damage, if sustain, or potential damage, incorporated therein: sustained loss, loss of profit, interests, transport costs, etc..
- c.** Sar Petfood B.V. shall reserve the right to actually retain goods, tools, materials, cars, supplies, securities (financial) documents, etc., she retains on behalf of buyer or customer under any title whatsoever, until buyer/customer has duly fulfilled his financial and other obligations towards Sar Petfood B.V..
- d.** For transactions with a buyer or customer located in a country in which an extended reserve of ownership applies Sar Petfood B.V. is at any moment entitled to declare the there applied extended reserve of ownership applicable.

## **ARTICLE 13: FORCE MAJEURE**

- a.** Force majeure shall relieve Sar Petfood B.V. of all obligations towards buyer/customer. Force majeure shall exist in case of such occurrences and situations which have a very apparent an immediate influence on the company of Sar Petfood B.V., such as: serious disturbances in our production process, war, also outside the Netherlands, riot, epidemics, fire traffic jam, labour strike, exclusion, loss or damage during transport, casualties or illness of employees, import restrictions or other restrictions imposed by the government, etc.. Sar Petfood B.V. shall be relieved of her obligations regardless if the force majeure occurred in her own company, or wheresoever, such as in companies of ancillary suppliers, transporters, wholesalers, etc..
- b.** In case the execution of the contract should be prevented through force majeure, Sar Petfood B.V. shall be liable, without judicial intervention, either to suspend the execution of the contract for a period of six months at the most, or to cancel the contract wholly or partly, such to be judged by the decision of Sar Petfood B.V. taken in this respect, in writing.

## **ARTICLE 14: PROTECTION OF INTELLECTUAL PROPERTY RIGHTS AND DESIGN**

- a.** The intellectual property rights of all products made, services rendered, etc. by Sar Petfood B.V. for buyer or customer belong to Sar Petfood B.V..  
Use or alternative use of these rights, designs and or ideas of Sar Petfood B.V. is strictly prohibited, unless explicit and written permission is granted by Sar Petfood B.V. and all the relevant conditions of Sar Petfood B.V. are met in full.
- b.** If buyer/customer should not comply with the statements pursuant to 14a Sar Petfood B.V. shall be entitled to a fine of Euro 11.500,00 (in words: eleven thousand five hundred euro) per offence per day or that part of it, the offence shall last. This without prejudice her rights for compensation for any damage suffered direct or indirect.

## **ARTICLE 15: WARRANTY**

Warranty Clauses for where the compliance requirements referred to in Book 7 of the Civil Code is not applicable

- a.** The only warranty Sar Petfood B.V. grants are those under the guarantee clause which are delivered with the products. In those cases the warranty is only valid after Sar Petfood B.V. has been informed by registered letter of the request by buyer or customer of his request.
- b.** If Sar Petfood B.V. grants a warranty in absence of a given guarantee clause then the duration of the warranty is up to 6 months after the goods. Here also the warranty is only valid after Sar Petfood B.V. has been informed by registered letter of the request by buyer or customer of his request.
- c.** The warranty includes repair or replacement of the delivered goods such at the discretion of Sar Petfood B.V.. External calamities can never lead to any mandatory warranty service by Sar Petfood B.V..
- d.** The goods taken into repair by Sar Petfood B.V. reside in all cases at the risk of buyer or customer. This also complies to a therefore engaged third party by Sar Petfood B.V..

## **ARTICLE 16: CONSIGNMENTS ON APPROVAL**

Solely if Sar Petfood B.V. shall have intimated so to buyer/customer beforehand in writing, the goods delivered by or on behalf of Sar Petfood B.V. can be considered as consignments on approval for the purpose of shows, exhibitions, fairs and/or other purposes to be indicated by Sar Petfood B.V..

The present general terms are also applicable unabridged to consignments on approval.

## **ARTICLE 17: APPLICABLE LAW AN COMPETENT JUDGE**

- a.** All offers made by, all orders accepted by and all contracts concluded with Sar Petfood B.V. shall be governed only by Dutch Law. However Sar Petfood B.V. may and can at any moment chose for the applicable law of the country the buyer customer has domicile, or for the applicability of the Vienna Sales Convention (CISG). Then contrary to what is stated below at sub b the reported dispute will be submitted to the judgement of the absolute competent judge in the district of the buyer customer. Sar Petfood B.V. has no obligation to inform buyer or customer hereof in advance.
- b.** Any disputes shall be submitted to the judgement of the absolute competent judge in the district of Oost-Nederland or to the judgement of another authority with judicial power such however at the option of Sar Petfood B.V..
- c.** Any article or sub-article of the present general conditions becoming void, this shall not affect the validity of other articles.

## **FINAL PROVISION:**

These general terms of sale are composed for Sar Petfood B.V. and filed by [De Incassokamer B.V.](#) and realized under the applicability of her current and future general terms of sale, subject to the provisions stated in the Burgerlijk Wetboek (civil code) book 6 section 3.

These general terms of sale are subject to the © copyright of De Incassokamer B.V..