

GENERAL TERMS AND CONDITIONS OF AVH DAIRY TRADE B.V. (Chamber of Commerce no. 37141955)

Section I - General

1. Definitions

In these general terms and conditions the following terms shall have the following meanings:

- 1.1 **AVHD:** AVH Dairy Trade B.V., a private company with limited liability, having its registered office in Alkmaar, the Netherlands;
- 1.2 **Other party:** any private individual or legal entity entering into an Agreement with AVHD or with whom AVHD is discussing or negotiating an Agreement in respect of Products and/or services to be provided, hereinafter jointly referred to as "the Products";

2. Applicability

- 2.1 These terms and conditions shall form part of all agreements and apply to all legal and other acts between AVHD and the other party, even if those legal and other acts should not lead, or are not related, to an agreement. The applicability of any general terms and conditions of the other party is explicitly waived by AVHD.
- 2.2 These general terms and conditions have also been stipulated for the benefit of the board member(s) of the said private company and of AVHD staff members.

3. Force Majeure

- 3.1 If, due to a non-attributable failure ("force majeure"), AVHD cannot perform its obligations vis-à-vis the other party, such obligations shall be suspended for the duration of the force majeure situation. If the force majeure situation has lasted for three months, either party shall be entitled to dissolve the agreement in whole or in part in writing.
- 3.2 Force majeure on the part of AVHD shall be taken to mean any circumstance outside AVHD's control, as a result of which performance of (the relevant part of) its obligations vis-à-vis the other party is prevented, delayed or made uneconomic, or as a result of which AVHD cannot reasonably be required to perform such obligations. Force majeure shall in any event include any delay or prevention caused by third parties (agents) who have been engaged by or on behalf of AVHD in the performance of its activities.

4. Liability

- 4.1 AVHD shall not be liable for any direct or indirect damage, including consequential damage, incurred by the other party or any third party. The other party shall indemnify AVHD against any third-party claims on any basis whatsoever. This limitation of liability shall not apply if the damage is the result of wilful misconduct or deliberate recklessness of AVHD's management.
- 4.2 AVHD's liability, on any basis whatsoever, shall in any event be limited to the amount that it will receive from its corporate liability insurer or, if no payment under an insurance policy can be made, up to the amount of the invoice, exclusive of VAT, of the relevant order or part thereof to which the liability relates, to a maximum of EUR 5,000.

5. Dissolution

- 5.1 AVHD shall be entitled to dissolve the agreement in or out of court by means of a written statement - in addition to the events provided for by law - if the other party loses the free disposal of all or part of its income and assets, irrespective of whether this occurs pursuant to a legal measure, such as bankruptcy, or if the other party is in default in the performance of any of its obligations under the order and the associated terms and conditions. This shall be without prejudice to AVHD's right to claim full damages from the other party.

6. Non-solicitation clause

- 6.1 During the term of this agreement and for a period of two years after termination thereof, the other party shall not employ any AVHD employees or agents, or have AVHD employees or agents directly or indirectly work for it in any other manner.
- 6.2 For this purpose, employees/agents shall be taken to mean private individuals who, and/or legal entities that, for purposes of work carried out by AVHD - or any of its affiliates -, have been engaged during the term of the agreement with the other party.

7. Applicable law and competent court

- 7.1 The legal relationship between the parties shall be governed by Dutch law. Disputes shall be settled only by a Dutch court. To the extent that mandatory national or international rules of law do not provide otherwise, only the District Court in the province of Noord-Holland, Alkmaar location, shall be competent to hear any disputes that may arise between the parties. The applicability of the Vienna Sales Convention (United Nations Convention on Contracts for the International Sales of Goods (CISG 1980) shall be excluded.

Section II - Terms and conditions of sale

8. Offer, acceptance and agreement

- 8.1 An offer or quotation by AVHD shall not be binding on AVHD and shall be considered an invitation to place an order only.
- 8.2 AVHD shall be entitled to refuse, or refuse to execute, orders without stating reasons. AVHD's accounting records shall serve as binding evidence of the substance of the order and the follow-up instructions.
- 8.3 An agreement shall be formed as soon as AVHD accepts an order by the other party in writing by means of an order confirmation or by executing the order. If, on request, AVHD renders any performance before full agreement has been reached on the price and payment conditions for such performance, the other party shall pay AVHD for those performance in accordance with the rates then applicable at AVHD. To the extent that the other party accepts an offer from AVHD with minor deviations, such deviations shall not form part of the agreement and the agreement shall be formed in accordance with AVHD's offer.
- 8.4 All quotations by AVHD have been made with due care, albeit that AVHD cannot warrant that no deviations shall occur in that respect. Any samples or models shown or provided shall be indications of the relevant Products only. Only in the event of serious deviations of the quotations by AVHD or of samples or models, the agreement may be dissolved.
- 8.5 When engaging third parties, AVHD shall observe due care and, when selecting such third parties, AVHD shall consult the other party in advance as much as possible. Any liability on the part of AVHD for shortcomings of such third parties shall be waived. If AVHD engages third parties that stipulate limitation of their liability, such clause shall be accepted by AVHD also on behalf of the relevant other party of AVHD.

9. Rates

- 9.1 All AVHD prices shall be in euro and exclusive of turnover tax, all unless otherwise indicated. Any change in the factors affecting the AVHD prices, including cost prices, currency exchange rates, and levies or taxes, can be charged on by AVHD to the other party.
- 9.2 If the agreement has been entered into for a fixed amount, AVHD shall remain entitled to carry out additional work compared to that specified in the order and to invoice the additional work to the other party at AVHD's customary rates, provided that such additional work is required for proper execution of the order.

Unless this is not reasonably possible, the other party shall be notified in writing in advance of the performance of such additional work, in which event it shall communicate in writing within five working days that it does not agree to such additional work and any associated costs, failing which AVHD shall be authorised fully to carry out the additional work and invoice it to the other party.

10. Payment

- 10.1 Payment by the other party to AVHD shall be arranged, without any discount or deduction, within 14 days of the date of the invoice or, if this is earlier, at least prior to delivery of the Products. AVHD may require prepayment by the other party and/or the provision of adequate security for the performance of the other party's payment obligations. Failing compliance with any such request, AVHD shall be entitled to suspend or terminate its activities with immediate effect without prejudice to AVHD's right to payment of (partial) deliveries already carried out and damages.
- 10.2 After expiry of the payment period the other party shall, without any further notice of default being required, owe interest of 1% per calendar month, part of a calendar month being counted for a full month. After the end of each calendar year the amount on which interest is calculated shall be increased by the interest due for that year.
- 10.3 If, even after expiry of a further payment period, the other party has not paid in full, it must compensate AVHD for all and any judicial and extrajudicial costs with a minimum of 15% of the remaining amount of the invoice. If AVHD grants, as a goodwill gesture or otherwise, an extension to the other party for any performance, the new deadline shall be firm.

11. Term of delivery

- 11.1 The term of delivery stated by AVHD is based on the circumstances at the time of entering into the agreement by AVHD and, to the extent dependent on performances by third parties, on the information provided to AVHD by such third parties. AVHD shall observe the term of delivery and/or execution time as much as possible; such term of delivery and/or execution time shall, however, not be a firm deadline.
- 11.2 The said terms shall become effective on the date of AVHD's written order confirmation. If the other party must provide information, the terms shall commence from the date of receipt by AVHD, albeit not before the date of the written order confirmation.
- 11.3 If any term is exceeded, the other party shall not be entitled to compensation or damages in that respect. In such event, the other party shall not be entitled to dissolution or termination by notice of the agreement either, unless exceeding the term is of such a nature that the other party cannot be reasonably required to maintain the agreement or the relevant part thereof. In such event the other party shall be entitled, after a notice of default containing a reasonable further term to perform, to dissolve or terminate the agreement by registered letter, however only to the extent this is strictly necessary. If the aforesaid situation occurs and justifies full or partial dissolution, any damages due by AVHD - irrespective of whether the other party claims dissolution or performance - shall be limited to fixed damages of EUR 35 per day from the time that AVHD is in default.

12. Right of retention

- 12.1 AVHD shall be authorised to retain all that is directly or indirectly related to the order, including all that has been provided to AVHD by or on behalf of the other party, as well as all that AVHD has produced for purposes of the order, until the moment that the other party shall have performed all its contractual and statutory obligations vis-à-vis AVHD, increased by interest and costs, if any.

13. Pre-delivery inspection

- 13.1 The other party shall be authorised to have the Products to be supplied tested by a certified or accredited sampler. If the parties fail to reach agreement on the sampler to be engaged, the relevant assignment shall hereby be granted in advance to one of the following agencies, on the basis of availability: Clip NV, Eurofins.
- 13.2 Such an inspection shall take place in accordance with the methods used by COKZ and the regulations at the time of the relevant inspection, unless the parties expressly agree otherwise.
- 13.3 If the said inspection takes place after delivery, the parties shall agree that in such event the inspection will take place in a similar manner, but that in such event only an indication can be given of the quality at the time of factual delivery of the Products.
- 13.4 The result of the said inspection by the relevant agency shall be binding on the parties, unless either party or both parties avail themselves of the right to revaluation, which right can be enforced within ten working days of publication of the results of the first inspection. Such revaluation shall consist of a re-inspection of the initial sample of the Products taken and may be carried out by the laboratory that forms part of one of the agencies identified in paragraph 13.1. If such revaluation has been applied in a timely and correct manner, the outcome thereof shall be binding on the parties. The costs of the aforesaid inspections shall be payable by the losing party.

14. Complaints

- 14.1 Complaints relating to defects in the Products delivered must be reported to AVHD in writing within 8 days after such defects could have been reasonably identified, or at least within 14 days of termination of the order. The other party shall not be entitled to lodge complaints if it has not performed its obligations under the agreement vis-à-vis AVHD.
- 14.2 If complaints have been lodged in a timely, correct and well-founded manner, AVHD may opt to remedy the defect, to supply the Products as agreed, or to give a discount on the price. By satisfying one of these performances within a reasonable term AVHD shall be released from its obligations and not be liable to pay damages.

15. Retention of title

- 15.1 Title to the Products supplied by AVHD shall remain vested in AVHD until the other party has fully paid AVHD's claims by virtue of this agreement or similar agreements, as well as the claims against the other party on account of attributable failure in the performance of such obligations by virtue of the said agreements, including claims relating to penalties, interest and costs.
- 15.2 As long as title to the Products supplied vests in AVHD, the other party may not modify, sell or encumber such Products, or give them in use to any third party in any way whatsoever.

16. Risk of storage of information

- 16.1 Damage to, or loss of, third-party information stored at AVHD or at third parties shall be at the expense and risk of the other party, unless AVHD demonstrably fails in the performance of its obligation of observing due care when storing the Products. AVHD may store the information entrusted to it using computerised systems.
- 16.2 The risk of damage or loss during transport or dispatch shall at all times be for the account of the other party, irrespective of by whom or on whose behalf such transport takes place.
- 16.3 AVHD shall be indemnified by the other party against any third-party claims in that respect.

17. Intellectual property

- 17.1 The intellectual property rights in the Products manufactured or conceptually developed by AVHD for the other party shall vest in AVHD, unless expressly agreed otherwise in writing. This also goes for Products building on a design or an idea that is subject to intellectual property rights of the other party. AVHD declares that, as far as it is aware, the Products do not infringe any valid third-party intellectual property rights in the Netherlands. AVHD can, however, not indemnify the other party against infringement, if any, of third-party intellectual property rights.
- 17.2 If AVHD manufactures Products, or has a third party manufacture Products, by virtue of a specific order from the other party on the basis of a non-AVHD design, the other party shall indemnify AVHD in that respect against all and any infringement in respect of third-party intellectual property rights.
- 17.3 The other party shall warrant that it will not infringe (and that it will not allow third parties to infringe, or enable infringement of) intellectual property rights of AVHD or its suppliers, in relation to the Products, for instance by copying, processing or counterfeiting the Products.

Section III Purchase conditions

18. Offer, acceptance and agreement

- 18.1 An offer or quotation from the other party shall be irrevocable and valid for a minimum period of 14 days after receipt by AVHD, unless AVHD is expressly granted a longer term in the relevant offer.
- 18.2 All orders given by AVHD to the other party shall be without obligation until the moment that such order has led to a correct order confirmation, all at AVHD's discretion. AVHD shall at all times be entitled to cancel an order confirmed by the other party up to two days after receipt by AVHD without AVHD being liable to pay any compensation or damages to the other party.
- 18.3 If the other party accepts AVHD's order with deviations, irrespective of the scope thereof, such deviations shall not form part of the agreement.
- 18.4 The substance of the agreement may, after it has been formed, not be unilaterally amended by the other party, irrespective of the nature and scope of the desired amendment and the cause thereof.

19. Payment

- 19.1 The prices stated in the order shall be fixed and exclusive of turnover tax. The prices shall include all costs and activities necessary to have the agreed Products be in accordance with the order, including costs of packing and transport, unless expressly agreed otherwise.
- 19.2 Payment by AVHD shall not be due until after full, timely and correct execution of the order by the other party.

20. Outsourcing of work

- 20.1 The other party shall be under an obligation to execute the order itself, unless AVHD has expressly agreed in writing to full or partial performance by third parties. In such event the other party shall be fully responsible for the performances of such third parties, as if they concerned its own performance and AVHD shall be indemnified by the other party against any claims from any third parties involved in the execution of the order.

21. Term of delivery

- 21.1 The other party shall perform within the term of delivery referred to in the order. The other party shall be in default if such term is exceeded, without AVHD having to stipulate a further term. The term of delivery shall commence at the time at which AVHD has given the order or has accepted the offer from the other party preceding such order.
- 21.2 AVHD shall be entitled to postpone delivery by the other party for a period of no more than 60 calendar days, unless postponement is, given all circumstances, manifestly unreasonable. If AVHD exercises the right to postponement, the other party shall store the agreed Products at a suitable location, set apart for the benefit of AVHD, take out insurance for such Products, and take appropriate measures to prevent loss of quality. In such event AVHD shall be under an obligation to pay a reasonable compensation to the other party for such costs, on the basis of arm's length rate.

22. Warranties

- 22.1 The other party shall warrant the correctness of the essentials of the agreement included in the order, including, but not limited to, the quality and quantity of the Products. In the absence of a specific indication of the quality, they shall be of good (A) quality, free of defects in terms of raw materials, production process and packaging, state-of-the-art and in accordance with all national and international regulations in respect of the relevant Products.
- 22.2 The Products shall in any event be considered defective if defects are identified within two months of delivery.
- 22.3 The said warranty shall entail that, in the event of breach, the other party will be liable to compensate AVHD for any ensuing damage, without any right to compensation or set-off.
- 22.4 If, with AVHD's consent, supply of replacement Products is opted for, whether or not in combination with damages, such replacement Products shall be subject to the same warranties as described above.

23. Pre-delivery inspection

- 23.1 AVHD shall be entitled to inspect and test, or have third parties inspect and test, the Products before delivery, as well as during processing, manufacture or storage. The other party shall enable AVHD or an expert to be designated by AVHD to do so, and supply the required facilities and assistance. The other party shall at all times be entitled to attend such testing.

24. Delivery carriage paid

- 24.1 The Products shall be delivered by the other party at a location to be designated by AVHD, properly packed in accordance with applicable regulations. Delivery in consignments shall at all times require AVHD's prior written consent. Upon delivery specified documents shall be present on the basis of which the contents and quantity of the Products delivered can be checked. Delivery shall be entirely at the risk of the other party.

25. Inspection upon delivery

- 25.1 AVHD shall inspect the Products within a reasonable period after delivery. Taking receipt of the Products upon delivery shall only mean that, in AVHD's provisional judgement, the Products are in accordance with the associated consignment note and, as a result, shall not affect the right to lodge a complaint and/or invoke any warranty obligation of the other party.
- 25.2 If AVHD rejects all or part of the Products delivered and has given the other party the opportunity to a full or partial replacement delivery, any related costs shall be fully borne by the other party, all without prejudice to AVHD's right to compensation of the damage suffered and to be suffered.
- 25.3 AVHD shall acquire full and unrestricted title to the Products at the moment that the Products have been delivered to it or at such earlier moment as (indirect) factual delivery has taken place in any other manner. The other party cannot enforce any right of retention or suspension in respect of the Products to be delivered by it.