



GENERAL SALES CONDITIONS SKM EUROPE B.V.

1 APPLICABILITY

- 1.1 These general sales conditions apply to each offer made by the private company SKM Europe B.V., Ridderplantsoen 7, 3523 HV Utrecht, the Netherlands (www.skmeurope.nl) (hereinafter referred to as Seller), and to all agreements the Seller enters into with a Purchaser.
- 1.2 Stipulations varying from these general sales conditions are valid only if expressly agreed in writing.

2 OFFERS, ORDERS

- 2.1 Oral offers and commitments only bind the Seller after and as far as the Seller has confirmed these in writing. All offers made by Seller in whatever form, are without obligation unless stipulated otherwise.
- 2.2 An Order, placed in whatever manner, only creates obligations for the Seller if the Order has been confirmed in writing or per email to the Purchaser by means of a sent Order Confirmation.
- 2.3 In the event of a difference between the contents of the documentation relating to the formation or performance of the Order of the Purchaser or the Seller respectively, the stipulated in the documentation of the Seller and especially the stipulated in the Order Confirmation prevails.
- 2.4 Seller retains the right to change the prices agreed before delivery and to charge them on to the Purchaser in the event of an increase of cost factors resulting from governmental measures or in the event of increased commodity prices.
- 2.5 All pictures and specifications of items in catalogues, price lists, advertisements and such apply as an approximation. Seller can not guarantee the correctness and accuracy of statements concerning weight, size, capacity and such. Seller is at all times entitled to make adjustments to the delivered items for improvement or in order to meet any governmental regulation.

- 2.6 If in the opinion of the Seller, products are insufficiently available for meeting the orders of all the Seller's customers, the Purchaser accepts that the Seller will assign orders of its customers according to the principle of proportionality to these customers on the basis of the sales to those customers during the period of six months prior to the insufficient availability of the products. Seller is entitled to make another division if the Seller sees cause thereto. In this respect the Purchaser is not entitled to any compensation.

3 PAYMENT

- 3.1 Payment must be made within 14 days after the date of the invoice in the currency set out in this invoice, being Euro's or English Pounds or any other currency, by means of a bank transfer of the amount owed to the bank account set out in the invoice. The due date is the date on which the amount has to be on the bank account of the Seller. The Purchaser is not entitled to claim settlement or to suspend payment.
- 3.2 After the payment term has lapsed the Purchaser is in default and as from that date he owes interest equal to the Dutch statutory trade interest.
- 3.3 Seller is at all times authorised before (continuing) its performance, to demand sufficient securities or a full or partial advance payment.
- 3.4 If the Purchaser fails to perform one or more of his obligations, then all reasonable costs incurred to obtain an out-of-court settlement are to the Purchaser's expense, including in any case the costs of a collection agency, bailiffs and lawyers. The provisions in this paragraph are without prejudice to the rights the Seller is entitled to according to law or these general conditions.
- 3.5 The Purchaser is obligated to pay all the costs reasonably incurred by the Purchaser in connection to a legal procedure according to which the Purchaser has been fully or mainly been ruled against. These costs in any case include the costs made for external experts, bailiffs and lawyers etc., also for as far as they exceed the amount ordered by the court in this respect.

4 DELIVERY

- 4.1 Unless agreed otherwise, delivery will take place Ex Works (Ex Works Incoterms 2000) Seller. The items are at the risk of the Purchaser as from the moment of delivery or as from the moment

the items to be delivered are handed over to a transporter for shipment to the Purchaser, even though the ownership of the items has not yet been transferred to the Purchaser. The purchaser is obligated to take receipt of the items at the Seller's first request.

- 4.2 The delivery times set out by the Seller are never deemed a fatal term, unless otherwise has expressly been agreed in writing. In the event of non-timely delivery the Seller should be given notice of default, whereby the Seller is provided a reasonable term of at least 30 days for the performance of its obligations. If this extended term is exceeded, the Purchaser is only authorised to terminate the agreement for as far as deliveries have not yet taken place.
- 4.3 The Seller is authorised to perform partial deliveries. If Orders are performed in parts, the Seller is entitled to invoice each part separately.
- 4.4 If parties have agreed that an Order will be delivered in parts then the Purchaser should timely, however not later than 30 days before the desired delivery date, inform the Seller in writing with regard to the wish to deliver a part of the Order while quoting the desired delivery date and desired amount. Seller will each time endeavour to deliver the amount demanded to the Purchaser on the desired delivery date. If the Seller for whatever reason is not able to deliver the demanded amount on the desired delivery date, parties will enter into consultation with regard to the feasible amount and delivery date. Purchaser intends to spread the size and the partial delivery as evenly as possible within and over the agreed period. In case the agreed period is longer than six months for partial deliveries, the Seller is entitled to charge storage costs if in his opinion the Purchaser does not spread his delivery demands evenly over the agreed period.
- 4.5 Except for as far as expressly agreed otherwise in writing the Seller determines the packaging and size of the batches.
- 4.6 The weight of the delivered items can vary 0,5% from the agreed weight.
- 4.7 Any limitations related to the use, ownership, resale and import of the items into a country of delivery, transit or destination are to Purchaser's account and risk. The foregoing also applies to the acquisition of any permits, concessions, licences permission and such.

5 COMPLAINTS

- 5.1 If it has been agreed between parties that samples of the items to be delivered will be provided for testing purposes prior to the delivery, the Purchaser should test these samples at his own expense with regard to their conformity with the agreed specifications. If the Purchaser accepts these samples tacitly or not, the Purchaser is deemed to have accepted the deliveries to which the samples relate. If the Purchaser deems one or more samples not in conformity with the agreed specifications, the Purchaser must inform the Seller thereof in writing within two working days after the discovery of the defects and set out the grounds on which the complaint is based. In that event the Seller is allowed to suspend the deliveries until he has tested the soundness of the complaint.
- 5.2 Upon delivery, the Purchaser must check and test the delivered items at his own expense for visible defects, deficits and suitability for the intended application. Visible defects, deficits and non suitability for the intended application must be reported to the Seller within two working days after delivery in writing and stating the grounds on which the complaint is made. In case of delivery with invisible defects the Purchaser must inform the Seller in writing and within 5 working days after the discovery or at least within 5 days after the Purchaser could reasonably have discovered the defects. The possibility to submit complaints lapses if the defect can be attributed to the Purchaser.
- 5.3 At the risk of forfeiting all his rights, the Purchaser is each time at the Seller's first request obligated to lend his full cooperation to an investigation of the complaints filed by Purchaser at the Seller, including in each case, however not limited to, the provision without charges of the results of the investigation and a description of the investigation method on which the Purchaser bases his complaints. A shortcoming at the side of the Seller related to not meeting the product specification of the items delivered or to be delivered can only be established by an investigation of the product samples of the items delivered or to be delivered, at the Purchaser's discretion, by the following research laboratories:
- Nutrilab BV, Burgstraat 12, 4283 GG Giessen, The Netherlands.
Or Eurofins WEJ Contaminants GmbH, Neuländer Kamp 1, D-21079 Hamburg, Germany.
Or by an independent research institution further agreed

between parties. If the complaint appears to be unfounded the costs of the research incurred by the Seller are at the account of the Purchaser.

6 RETENTION OF TITLE

- 6.1 Seller retains the property right of the items delivered and to be delivered to the Purchaser until full payment has been received of all purchase prices, and also of any amounts owed by the Purchaser relating to work activities performed by the Seller in connection with these sales agreements and of debts resulting from attributable shortcomings of the Purchaser with regard to the performance of such agreements.
- 6.2 As long as the ownership of the delivered items has not been transferred to the Purchaser, he is not permitted to pledge these items or to grant a third party any right thereto. Contrary to the other provisions in this article the Purchaser is permitted to sell and actually deliver the items subject to retention of title to thirds in the framework of regular business operations, or to use, consume or mix them.
- 6.3 The Purchaser is obligated to carefully store, as per the storage instructions mentioned on the product specification of the Seller, the items delivered subject to retention of title as recognisable property of the Seller. He is also obliged to insure these items against fire, water damage, theft or any other damage. Any claims of the Purchaser under the heading of these insurances will be pledged at the Seller's first request by the Purchaser to the Seller, as increased security for the debts of Seller towards Purchaser.
- 6.4 If the Purchaser fails with regard to the performance of any obligation towards Seller, or Seller has good grounds to fear that he will fail in the performance of his obligations, the Seller is allowed to take back the items delivered subject to retention of title, without prejudice to his right to further compensation. The costs of taking back the items are at the Purchaser's expense.

7 FORCE MAJEURE

- 7.1 If the Seller does not attributable fail in the performance of his obligations (force majeure) then he is not liable. For as far as performance is not permanently impossible, his obligations will be suspended. If the period during which performance is not possible due to force majeure lasts or will last longer than two months, then both parties are authorised to terminate the agreement without any obligation to pay compensation.
- 7.2 If the Seller has only partially performed his obligations or will only be able to partially fulfil his obligations, he is authorised to invoice the already delivered or deliverable part separately and the Purchaser is obligated to pay this invoice as if it were a separate agreement.
- 7.3 Force majeure in the framework of this article exists *inter alia* in case of a shortage which is directly or indirectly the result of strike, lack of commodities, stagnation at the side of suppliers, operational breakdown, machinery breakdown, war, molest, revolution, government measures, outbreak of diseases including any form of bird flu, unexpected contamination of the items delivered or to be delivered and transport problems.

8 GUARANTEE

- 8.1 Without prejudice to the provisions in article 9 concerning compensation, the Seller is, if the items delivered by Seller display defects which have been reported in due time, only obligated to repair these defects in the items delivered free of charge (at its discretion), or to have them repaired or to provide the components required for repair or to replace the item or items concerned in their entirety. If repair or replacement is not/no longer possible or is disproportionately inconvenient according to the Seller, Seller is authorised to repay the purchase price, without being obligated to pay any further compensation. As far as not agreed otherwise the obligation described in this article applies during ninety days after delivery.
- 8.2 Seller is authorised to require that the item eligible for guarantee is returned carriage paid by the Purchaser to him or to an address to be indicated by him.

9 LIABILITY

- 9.1 The liability of the Seller with regard to loss or damage caused by a shortcoming in the fulfilment of the agreement or by tort is limited to the guarantee obligation mentioned in

article 8 if it concerns a defect of the delivered item and to repayment of the purchase price in other cases, except if and for as far as loss or damage is the result of intent or gross negligence on the side of the Seller.

- 9.2 Seller is never liable for consequential loss, including in any case trading loss, damage to products which are mixed with the items delivered by the Seller, loss due to business interruption and or loss of the Purchaser's profit.
- 9.3 Except as far as the claim is the direct result of intent or gross negligence at the Seller, the Purchaser fully indemnifies the Seller against claims of third parties related to the items delivered by the Seller to the Purchaser.
- 9.4 Each claim for compensation of damage, loss, repair or replacement of the item and/or delivery if the lacking, under whatever heading, as also all rights to termination of the agreement lapses, depending on which event takes place first, in case of non-timely report as referred to in article 5 or one year after delivery, and also if the items have been partially or fully used or consumed after delivery, adjusted or processed or mixed with other matters.

10 TERMINATION AND SUSPENSION

If the Purchaser fails to perform one of his obligations towards the Seller or if the Seller fears that the Purchaser will not perform his obligations and the Purchaser is not able, at the Seller's first request, to provide adequate security for the performance of his obligations, or if property of the Purchaser is seized, the Purchaser applies for a moratorium, is declared bankrupt or loses the free disposition of his assets in any other manner, then the Seller has the right to suspend (further) performance of all the agreement(s) entered into with the Purchaser, or to wholly or partially terminate these agreement(s), without prejudice to the right of the Seller to additional or replacing compensation. Each right of the Purchaser to suspend is excluded.

11 PRODUCT RECALL

- 11.1 Purchaser is to set up his company in such a manner that the items delivered by the Seller are and remain traceable in conformity with the relevant legislation. Purchaser will follow the Seller's instructions related to a product recall. The costs following from a product contamination or a product recall will only be reimbursed for as far as they are covered

by an insurance taken out by the Seller and for as far as the insurer also proceeds to payment.

12 OTHER PROVISIONS

- 12.1 A waiver of a right by the Seller relating to an infringement of a provision in the agreement made between parties, does not form a waiver of a right related to infringement of other provisions, nor in connection with a subsequent infringement of that same provision.
- 12.2 Purchaser is deemed to agree with the choice made by the Seller with regard to telecommunication facilities used for the communication between parties and for the thirds involved in the performance of the agreement. Seller is never liable for mutilation or loss of data sent by means of telecommunication facilities.
- 12.3 The agreements existing between parties can only be changed in writing and with the explicit consent of both parties.

13 DISPUTES AND APPLICABLE LAW

- 13.1 The agreement made by Seller and Purchaser is governed by Dutch Law. For the record, the Vienna Sales Convention (United Nations Convention on Contracts for the International Sale of Goods) forms part of Dutch Law.
- 13.2 In the event a dispute arises between parties concerning the agreement, then they are obliged to reach agreement through negotiations before submitting the dispute to the court.
- 13.3 All disputes between parties will be resolved by the District Court Midden Nederland, in Utrecht, the Netherlands. This stipulation is without prejudice to the authority of the Seller to submit the dispute to the court which would be authorised when disregarding this stipulation.