

GENERAL PURCHASING TERMS AND CONDITIONS OF: KÜHNE + HEITZ HOLLAND B.V. AT DORDRECHT

Article 1: Scope of the general terms and conditions

1. These general purchasing terms and conditions are applicable in all cases in which **Kühne + Heitz Holland B.V.**, based at Dordrecht -hereinafter: "**Kühne + Heitz**"-, concludes agreements with its suppliers irrespective of the nature of the service or delivery to be performed by the supplier and to any statements (including quotations and requests for quotations) made by parties in this connection.
2. These general terms and conditions are applicable without prejudice to the right of **Kühne + Heitz** to exercise any further rights that are not described here but that are assigned to it by law or treaty.

Article 2: The creation of an agreement

1. Unless the supplier notifies **Kühne + Heitz** in writing and within no more than 48 hours of the order date that it does not accept the order and/or these general terms and conditions, the order and these general terms and conditions are deemed to have been accepted.
2. The (prospective) supplier bears the risk of the incorrect transfer of data if said transfer takes place orally.

Article 3: Prices

The agreed prices are exclusive of turnover tax. These are fixed unless the agreement mentions the circumstances that may lead to a price adjustment and the way in which such an adjustment may take place. Unless agreed otherwise, prices are in all cases deemed to include any costs and duties, such as transport costs to the place of delivery, costs of delivery and insurance, import duties and packaging.

Article 4: Delivery

1. Unless agreed otherwise, delivery takes place on the basis of "CIP" (Cost Insurance Paid) at the location indicated by **Kühne + Heitz**. The version of Incoterms applicable at the time of the transaction is applicable in all cases.
2. The term "delivery" also includes delivery of all accompanying health certificates, inspection reports and other documents required for importing the purchased items into the country of destination. These documents must be sent without delay by courier to **Kühne + Heitz**. In addition, these documents must be sent by fax or e-mail to **Kühne + Heitz** prior to delivery.
3. Agreed delivery terms and/or delivery times are always binding. In the event that the

supplier fails to fulfil its obligations under the agreement or fails to do so properly or in time, it shall immediately be in default without having been served notice of default by **Kühne + Heitz**.

4. Without prejudice to the provisions in the preceding paragraph, the supplier is obliged to send the relevant purchasing department of **Kühne + Heitz** immediate written notification of any (possible) delay in the fulfilment of the agreement, while also stating reasons.
5. The supplier warrants that the items are properly packaged with due regard to the statutory requirements imposed by the national government and the European Union as well as any packaging instructions of **Kühne + Heitz**. The items must furthermore be packaged and marked in accordance with the requirements of the country of destination.
6. Without prejudice to further instructions of **Kühne + Heitz**, the items must be marked with the order number of **Kühne + Heitz**, whilst the product name, net weight and country of origin must be stated on each packaging unit. They must be accompanied by packing lists clearly stating the order number of **Kühne + Heitz**, numbers and net weights per packaging unit.
7. If the supplier has not yet proceeded to effect delivery, **Kühne + Heitz** has the right to unilaterally postpone the delivery and/or change the place of destination and to notify the supplier accordingly. **Kühne + Heitz** is obliged in this connection to take account of what is reasonably possible for the supplier and to consult with it about any such changes. **Kühne + Heitz** may require the supplier to take all reasonable measures necessary for the preservation, security and insurance of the items in question.

Article 5: Transfer of risk and ownership

With due regard to the provisions in Article 4, the risk and ownership of the items are transferred to **Kühne + Heitz** at the time of the actual delivery at the agreed location.

Article 6: Inspection and complaints

1. If **Kühne + Heitz** finds that the delivery by the supplier fails to meet the terms of the agreement, it only has the right to complain after the delivered items have been wholly or partly forwarded or processed.
2. If any items are rejected by **Kühne + Heitz** on good grounds, the risk in relation to these items remains with the supplier.

Article 7: Guarantee, safety and the environment

1. The supplier guarantees that the items to be delivered meet the terms of the agreement and that it shall observe all statutory provisions in this respect. Any

foodstuffs that are delivered must be fit for human consumption and meet the regulations applicable in the country of destination. Unless agreed otherwise, the delivered items must be of first quality.

2. The supplier guarantees **Kühne + Heitz** that it shall comply in full with all statutory safety, health and environmental regulations. The supplier undertakes vis-à-vis **Kühne + Heitz** to follow any reasonable instructions from **Kühne + Heitz** in the field of safety, health and the environment.

Article 8: Fulfilment and liability by/of the supplier

1. If the agreement is not fulfilled or not fulfilled properly or in time **Kühne + Heitz** may, at its own option and without prejudice to any other of its rights under these general terms and conditions, claim:
 - immediate replacement at no cost,
 - immediate rectification of the shortcoming,
 - reduction of the purchase price or restitution thereof. A single written statement from **Kühne + Heitz** to the effect that it wishes a (full or partial) reduction of the purchase price represents an invocation of the right to full or partial dissolution of the agreement,
 - compensation, which may or may not be related to the purchase of goods to replace those to which the agreement relates,
 - dissolution of the agreement.

The term "immediate" in this paragraph is understood to mean five working days unless **Kühne + Heitz** agrees to a longer term or unless a shorter term is necessary on compelling grounds as indicated by **Kühne + Heitz** and supplier is able within reason to comply with this shorter term.

2. The supplier is liable vis-à-vis **Kühne + Heitz** for all (further) damage of whatever name or nature (including consequential loss) that **Kühne + Heitz** may suffer as a result of the supplier's failure to fulfil the agreement or to do so properly or in time.

Article 9: Non-attributable failure to fulfil obligations (force majeure)

1. If the supplier wishes to invoke force majeure – including any legally valid reservations made by it in this respect – in relation to any circumstances beyond its control, it is obliged to notify **Kühne + Heitz** immediately of its reasons for invoking this right and, if **Kühne + Heitz** so wishes, to provide evidence of the existence of these reasons.
2. The supplier is obliged to enclose with the aforementioned notification a statement indicating what service it shall, according to reasonable expectations, be able to provide and within what time frame.
3. After receiving said notification from the supplier **Kühne + Heitz** shall decide within

a reasonable term whether, and if so, what service it expects the supplier to perform and shall inform the supplier accordingly. After **Kühne + Heitz** has sent the supplier a written and definite statement indicating the service that it requires the supplier to perform, the agreement can be deemed to be dissolved as regards any other obligations.

4. **Kühne + Heitz** also has the right to opt for complete dissolution of the agreement by sending written notification to the supplier. **Kühne + Heitz** is not obliged to give the supplier notice of default prior to the statement dissolving the agreement.
5. Force majeure on the part of the supplier shall under no circumstances be deemed to arise from a third party's failure to fulfil its obligations to the supplier concerning the full, proper or timely delivery of a service which is of significance in relation to the service to be performed by the supplier.

Article 10: Suspension and security

If the supplier, despite being declared in default, fails to meet any of its obligations or if **Kühne + Heitz** plausibly demonstrates that the supplier shall not meet its obligations, **Kühne + Heitz** has the right to:

- suspend all its obligations vis-à-vis the supplier – i.e. including those obligations not relating to the agreement that the supplier has failed to fulfil – until the supplier fulfils all its obligations;
- require the supplier to provide sufficient security for the fulfilment by the supplier of all its obligations, i.e. also for those obligations not relating to the agreement that the supplier has failed to fulfil.

Article 11: Payment

1. **Kühne + Heitz** shall –unless agreed otherwise– pay the agreed price within 60 days after receipt of the items and on the basis of a properly prepared invoice, unless **Kühne + Heitz** has rejected the items and/or the accompanying documentation or has suspended its obligation to pay in a legally valid manner. **Kühne + Heitz** reserves the right of settlement in relevant cases.
2. Supplier shall state the order number of **Kühne + Heitz** on its invoices.
3. Payments are made by **Kühne + Heitz** without prejudice to its right to demand satisfaction from the supplier for any shortcoming and / or wrongful act.

Article 12: Intellectual property

Kühne + Heitz obtains legal title to all intellectual rights arising due to and / or as a consequence of the fulfilment of the agreement by the supplier. Insofar as necessary, the supplier transfers these rights to **Kühne + Heitz** by concluding the agreement, while remaining obliged to fulfil all (other) necessary formalities to ensure that **Kühne + Heitz** acquires the legal title to said intellectual rights.

Article 13: Confidentiality

1. Supplier shall exclusively use any information received orally or in writing from **Kühne + Heitz** for the performance of the order(s). This information remains the property of **Kühne + Heitz** and, insofar as said information is in writing, must be returned to **Kühne + Heitz** at the latter's request, including any copies made thereof.
2. Supplier is obliged to maintain absolute confidentiality with regard to any information relating to **Kühne + Heitz**, its business and its customers unless a legal regulation obliges it to act otherwise.
3. Supplier is forbidden, without express permission in writing from **Kühne + Heitz**, to mention and/or use the trade names, brands or products of **Kühne + Heitz** in any manner, including for reference or advertising purposes.

Article 14: Penalty

In the case of any violations by supplier or its staff or third parties engaged by supplier of the provisions laid down in Article 13 of these general terms and conditions, supplier shall forfeit to **Kühne + Heitz** an immediately payable penalty of € 5,000 per violation or, at the option of **Kühne + Heitz**, € 1,000 for each day during which that violation continues. This penalty clause does not serve to compensate any loss or to replace the right to performance of contract, so that **Kühne + Heitz** remains entitled to demand compensation and/or performance of contract in addition to the penalty.

Article 15: Costs of legal assistance

The supplier is required to pay **Kühne + Heitz** all out-of-court and court costs if, despite receiving a reminder, it fails to pay a due and payable sum. Both the out-of-court and the court costs are calculated on the basis of the rate per time unit, insofar as reasonable, that the legal adviser of **Kühne + Heitz** charges for such cases plus any reasonable expenses paid by that legal adviser to third parties.

Article 16: Applicable law and competent court

1. All agreements concluded by **Kühne + Heitz** are governed by Dutch law with the exclusion of the Treaty of the United Nations on international contracts of sale relating to movable property.
2. All disputes that arise between **Kühne + Heitz** and that are governed by these general terms and conditions shall, unless imperative law impedes this, be settled by the competent court within the jurisdiction of the Court of Rotterdam, the Netherlands, without prejudice to the right of **Kühne + Heitz** to take the buyer to another competent court.