

GENERAL TERMS AND CONDITIONS OF SUPPLY

Ruby Trading B.V.

Nederlands: voor cliënten wordt er op verzoek kosteloos een Nederlandse versie ter beschikking gesteld.

1. Applicability 1.1. These General Terms and Conditions of Supply (hereinafter: “**the Conditions**”) shall apply to all offers, tenders and quotations, deliveries and services provided by or on behalf of Ruby Trading B.V., all its legal successors and all legal entities affiliated with Ruby Trading B.V. (hereinafter: “**Ruby Trading**”) and to any contract to which Ruby Trading is a party as the seller/contractor (hereinafter: “**the Contract**”). The buyer/customer is hereinafter referred to as “**the Buyer**”.

1.2. In the event of a conflict between the terms of the Conditions and any terms of the Contract, the terms of the Contract prevail.

1.3. If at any time one of the below-mentioned provisions should be declared not applicable or contrary to law or to any other mandatory regulations, only the provision in question shall no longer apply between the parties. The remaining Conditions shall preserve their full effect at all times.

1.4. Variations to the Conditions shall only be possible if and insofar as Ruby Trading has expressly agreed to such variations in writing.

1.5. In case of differences between the English text of these Conditions and versions of these Conditions in other languages, the English text shall prevail.

2. Formation of a Contract 2.1 An offer, a tender or a quotation, in whatever form, from Ruby Trading is always without obligation and non-binding for Ruby Trading even if it includes a term of acceptance, except and insofar as Ruby Trading expressly states the opposite.

2.2 A Contract is only concluded with Ruby Trading at the moment that Ruby Trading confirms in writing its acceptance of an order or assignment or carries out such order or assignment. The scope and content of the Contract are those stated in Ruby Trading’s written confirmation.

3. Prices 3.1 Unless otherwise stated in writing, all prices are net prices and do not include VAT and any other government charges, unless parties have explicitly agreed otherwise.

3.2 The agreed prices and conditions shall only be binding if confirmed in writing by Ruby Trading. Any prices agreed in writing shall be binding on the parties subject to the risk provided for in clause 3.3.

3.3 Even if confirmed in writing, Ruby Trading shall be entitled to alter prices as a result of unforeseen circumstances or force majeure as defined in clause 12.4. The other party shall in that event be entitled to terminate the Contract relating to the goods concerned.

3.4 The Buyer cannot derive any rights from manifest misprints or typing errors in a quotation or from an incorrect estimate of the market situation at the time of the quotation.

4. Payment, interest and costs 4.1 All sums payable must be credited in full within 14 days of the invoice date to the bank account of Ruby Trading without deduction or offset, unless parties have agreed otherwise in writing.

4.2 Contrary to the provisions in clause 4.1, Ruby Trading shall at all times reserve the right to demand cash payment or cash on delivery for any delivery or part delivery or to demand sufficient proof of certainty of payment.

4.3 The Buyer shall be in default simply by virtue of its failure to make payment or to fulfil any other obligation within its specified term, without any further warning, summons, or proof of default being required.

4.4 If a payment due to Ruby Trading is not made on time, the Buyer will automatically owe Ruby Trading interest pursuant to Article 6:119a Dutch Civil Code, plus 10 per cent of the invoice amount, starting from the date on which the term for payment has lapsed, without prejudice to Ruby Trading's other rights.

4.5 Any (extra)judicial costs related to late payment by the Buyer, which will be calculated in accordance with the "Rapport BGK-Integraal 2013" (report by the Netherlands Association of the Judiciary), as further defined in the "Besluit BIK" (Statutory Scale for Extrajudicial Collection Costs), will be for the Buyer's account. In any case the Buyer shall then be liable for a minimum payment of €250.

4.6 In case the Buyer calls for delivery of goods under the Contract while the outstanding balance of the previous delivery/deliveries has expired and remains unpaid, Ruby Trading reserves the right to suspend the implementation of said Contract.

5. Requirements and guarantees 5.1 Ruby Trading need only ensure that the goods comply with the requirements that have been agreed in writing between the parties.

5.2 Before delivery of the goods, the Buyer must indicate explicitly what use is intended for the goods.

5.3 Ruby Trading does not guarantee that the goods are suitable for any intended use other than the Intended use described on the Product Specifications Sheet provided by Ruby Trading, unless parties have explicitly agreed in writing that the goods must be suitable for a certain intended use.

5.4 Before delivery of the goods, the Buyer shall inform Ruby Trading in writing about any (statutory) regulations and requirements that will apply in relation to the goods in view of the purpose, the location and the circumstances. Ruby Trading only ensures that the goods comply with such regulations and requirements as duly specified by the Buyer in writing.

5.5 Ruby Trading shall not be obliged to give any further guarantees than those that have explicitly been agreed in writing between the parties.

6 Samples and testing 6.1 If a sample has been provided by Ruby Trading to the Buyer, the Buyer is entitled to reject the sample provided by Ruby Trading as long the Buyer informs Ruby Trading of its rejection in writing no later than the 1st working day following the day on which the Buyer received the sample. In the absence of such rejection, the sample is deemed approved. Upon timely rejection, the Contract is dissolved without any obligation to pay damages.

6.2 Prior to delivery products are tested in respect of certain qualities and/or specifications to verify compliance with EU food law provisions and/or the agreed product specifications. The Buyer without reservation accepts any report and/or certificate provided by Ruby Trading demonstrating compliance in respect of agreed qualities and/or specifications as full and final evidence of compliance at the time of delivery.

7 Security 7.1 Ruby Trading can require the Buyer to provide (additional) security for payment at any time during the course of the Contract. If the Buyer does not honour a reasonable request for the same, Ruby Trading is entitled to suspend the performance of its obligations under the Contract until the Buyer has provided the required security.

8 Retention of title 8.1 The goods delivered remain the property of Ruby Trading until the moment of payment in full of all sums owed by the Buyer under the terms of the Contract.

8.2 Until full payment is made by the Buyer, the goods may only be re-sold or used by the Buyer within the normal course of its business. During this period the goods may not be pledged or provided as security for a third party claim. The Buyer must store the goods separately, in order for them to be recognizable as goods delivered by Ruby Trading.

8.3 For German Buyers the reservation of ownership also applies to goods that have already been processed or sold by the Buyer (*Verlängerter Eigentumsvorbehalt*). German Buyers shall include all companies, branches of companies and any other legal persons, acting as Buyers, that have their statutory seat in Germany.

8.4 The retention of title as provided in clauses 8.1 through 8.3 also extends to any other claims that Ruby Trading may have against the Buyer.

9 Lien and right of retention 9.1 Ruby Trading shall have a lien and a right of retention on all goods, documents and monies held or to be held by Ruby Trading in the future for whatever reason and for whatever purpose, for all current and future claims it may have on the Buyer.

9.2 Ruby Trading can also exercise the rights granted to it in Paragraph 9.1 with regard to the amounts the Buyer still owes to Ruby Trading in connection with preceding orders or assignments.

9.3 In case of non-payment of the claim, the security may be executed in the manner prescribed by law.

10 Claims / complaints 10.1 If the Buyer is of the opinion that Ruby Trading failed in the performance of its obligations under the Contract, the Buyer must inform Ruby Trading thereof by means of a reasoned written complaint including proof of the alleged shortcomings within 72 hours after delivery of the goods.

10.2 If Ruby Trading deems any complaint well-founded, it has the right, at its election, to perform in conformity with the Contract or to refund at most the amount agreed for the relevant performance, whereby the Buyer is held to return the goods to Ruby Trading.

10.3 If a complaint is not lodged within the term set forth in Article 10.1, or is not lodged in the prescribed manner, the delivered goods will be deemed to have been completely and irrevocably accepted and approved by the Buyer as fulfilling the Contract.

10.4 A complaint shall never relieve the Buyer of its commitments with respect to Ruby Trading.

10.5 Returning the delivered goods, or a part thereof, for any reason, may be done only with Ruby Trading's express prior written permission and delivery instructions.

11 Time limit for claims 11.1 Any claims of the Buyer will automatically expire after a period of 6 months, unless the claim has been submitted to the competent Court before lapse of this period.

11.2 The expiry will commence on the day following the day on which the goods were delivered/services were provided or should have been delivered/provided, or, failing which, as from the day following the day on which the claim arose.

12 Force majeure 12.1 In the event that Ruby Trading is prevented by force majeure from fulfilling any of its obligations and Ruby Trading is of the opinion that the situation of force majeure is of a temporary or passing nature, Ruby Trading is entitled to delay performance of its obligations under the Contract until the situation, reason, or event giving rise to force majeure no longer exists.

12.2 If the situation of force majeure continues for longer than 30 calendar days, Ruby Trading and the Buyer each have the right to terminate the Contract.

12.3 If after a situation of force majeure as described in this Article 12 the conditions are changed in such a way that Ruby Trading cannot reasonably be required to fulfil its commitments under the Contract, Ruby Trading has the right to dissolve the Contract.

12.4 Force majeure shall be understood to mean circumstances under which Ruby Trading cannot reasonably be expected to meet its obligations under the Contract. These circumstances shall include, but shall not be limited to: microbiological hazards, oil crises, extreme price increases, weather influences, natural disasters and war or conflict situations, strikes and/or work stoppages; government measures and/or regulations that prevent, delay, or otherwise interfere with the fulfilment of obligations; lack of means of transport, any transport route or mode of transport being inaccessible or unusable; interruption in the supply of energy, raw materials, inputs or end products; technical outages and/or defects and all other problems preventing suppliers used by Ruby Trading from delivering to Ruby Trading and subsequent delivery to the Buyer.

12.5 If as a consequence of a situation of force majeure Ruby Trading is prevented from fulfilling its obligations towards one or more of its counterparties, but not all obligations towards all of its counterparties, Ruby Trading is entitled to select which of the obligations and for which counterparties he will fulfil, as well as the order in which this shall be done

12.6 Ruby Trading has the right to claim payment for everything done by or on behalf of Ruby Trading to fulfil its obligations under the Contract before the force majeure situation arose.

12.7 Should fulfilment of the Contract under increased costs be possible and the Buyer so wish, the additional costs will be borne by the Buyer.

13 Liability 13.1 If Ruby Trading is liable and its liability is covered by an insurance taken out by Ruby Trading, Ruby Trading is only liable up to the amount paid out by the insurer.

13.2 If Ruby Trading is liable and its liability is not covered by an insurance taken out by Ruby Trading, Ruby Trading's liability is limited to the amount of SDR 10,000 or to the invoice value of the goods directly related to the loss, whichever amount is lower.

13.3 Ruby Trading shall never be liable for any indirect loss howsoever arising, unless the Buyer proves that the loss is due to the intent or gross negligence of the management of Ruby Trading. Indirect loss includes, but is not limited to, costs for destruction of goods, consequential loss, trading loss and/or immaterial loss of any nature whatsoever, which shall include loss owing to business interruption, recall costs, losses due to recall, loss of orders, loss of profits, loss of income or loss of use of the Buyer.

13.4 Ruby Trading is never liable for any damage caused by force majeure as defined in clause 12.4.

13.5 Ruby Trading is never liable for any damage arising from use other than the Intended use specified in the Product Specification Sheet provided by Ruby Trading.

13.6 Ruby Trading shall not be liable for any damage directly or indirectly caused by any of its auxiliary persons, agents or representatives.

13.7 The Buyer shall indemnify Ruby Trading and its staff against any third party claims whatsoever in respect of loss suffered by a third party/third parties as a result of, or in connection with, (the use of) goods delivered by Ruby Trading to the Buyer. The Buyer shall indemnify Ruby Trading and its staff in particular against any claim based on, or arising from, the product liability regulation as stipulated in the Dutch Civil Code Book 6 Part 3 Title 3.

14 Termination of Contracts 14.1 The Contract can be terminated by mutual agreement at all times. Such termination shall be agreed explicitly and in writing.

14.2 Ruby Trading shall reserve the right to terminate the Contract immediately in the event that (not limitative):

- a) the Buyer (repeatedly) fails to fulfil its obligations under the Contract;
- b) there is serious doubt as to whether the Buyer will be able to fulfil its obligations under the Contract, in particular with regard to its financial obligations;

c) the Buyer, despite a specific request from Ruby Trading, fails to provide sufficient security for the fulfilment of its financial obligations;
d) the Buyer (repeatedly) fails to fulfil its obligations under the Contract, or if there is serious doubt as to whether the Buyer will be able to fulfil its obligations under the Contract, in particular, but not only with regard to its financial obligations,
e) the Buyer has a bankruptcy petition presented against it;
f) the Buyer applies for a suspension of payments;
g) a sequestration order or other prejudgment measures are imposed upon the Buyer;
h) the Buyer transfers a significant part of its business to third parties or significant control of the business is transferred from the Buyer to third parties; or
i) the Buyer acts in such a way that Ruby Trading cannot reasonably be expected to perform or continue the Contract. 14.3 If any of the situations referred to in clause 14.2 occurs, all Ruby Trading's claims on the Buyer shall be fully payable on demand.

14.4 Ruby Trading shall never be liable for any damage whatsoever arising from its termination of the Contract on the basis of clauses 12.2, 14.1 or 14.2.

14.5 Any right of the Buyer to terminate the Contract is excluded, except for the situations specified in clause 12.2 and 14.1.

15 Confidentiality 15.1 Any information received from Ruby Trading which has not been made public by Ruby Trading is confidential and may not be disclosed without Ruby Trading's prior written permission.

15.2 Any data and information provided in the context of a tender or offer from Ruby Trading shall expressly remain the industrial or intellectual property of Ruby Trading. The Buyer shall at all times be prohibited from using such information for its own use or for use by third parties. This information must remain strictly limited to the Buyer's own internal use in the context of an order placed with Ruby Trading.

16 Jurisdiction and applicable law 16.1 All Contracts and legal relationships to which these Conditions apply are governed by Dutch law.

16.2 Any and all disputes that may arise between the Ruby Trading and the Buyer must be submitted, to the exclusion of all other courts, to the competent court of Amsterdam, the Netherlands.