

## GENERAL CONDITIONS OF SALE OF DELINUTS NORDICS AB

version 2017:1 with effect from 13 November 2017

### **1 Applicability**

- 1.1** These general terms of sale ("General Terms of Sale") apply for all deliveries of products and or/services from Delinuts Nordics Food Service & Retail Sweden AB ("Delinuts Nordics").
- 1.2** Agreements on deviations from these general terms and the Agreement (as defined below) must be made in writing and signed by Delinuts Nordics and the customer in order to be applicable. Any of the customer's own general terms or similar shall only apply if they are expressly accepted by Delinuts Nordics in writing.

### **2 Quotations and acceptance**

- 2.1** These general terms comprise an integral part of the agreement entered into by Delinuts Nordics and the customer ("the Agreement"). The Agreement, as applicable, comprises (i) any general agreements or other written agreements, (ii) these General Terms of Sale and (iii) Delinuts Nordics's order confirmation. In the event of a conflict between the above-mentioned documents, they shall take precedence in the order stated above.
- 2.2** The customer is not entitled to cancel a placed order. The Agreement becomes binding for Delinuts Nordics when the order is confirmed in writing or in electronic form (e-mail).
- 2.3** In the event that Delinuts Nordics gives the customer a quotation without stating a time limit for acceptance, the quotation shall be deemed to expire one week after it is issued, unless the customer has accepted the estimate before then.

### **3 Prices**

- 3.1** Delinuts Nordics calculates prices in Swedish kronor based on the market prices in effect at the time. The prices of ordered items can be quoted in another currency if agreed between Delinuts Nordics and the customer. All prices exclude VAT. The customer is obliged to accept increases in the agreed price arising from increased costs for Delinuts Nordics as a result of exchange rates, customs, taxes or fees, for example, relating to agreed orders.
- 3.2** Delinuts Nordics is entitled to charge a small order fee for orders of less than SEK 3,000, unless otherwise agreed.

### **4 Terms of payment**

- 4.1** Payment must be made no later than the final payment date specified in the invoice. If no final payment date has been agreed, the customer must make an advance payment for delivery to be made.
- 4.2** If the delivery is postponed at the request of the customer, or due to circumstances for which the customer is responsible, the customer is still obliged to make payment in accordance with the terms of payment on the invoice as though delivery had been made on time. However, this does not apply if Delinuts Nordics has approved a postponed payment date in writing.
- 4.3** If the customer fails to pay by the final payment date, Delinuts Nordics is entitled to invoice penalty interest equating to 1.5% per started 30-day period until full payment (including the interest due) is made.

- 4.4** In the event of delayed payment, Delinuts Nordics is also entitled to withhold delivery of products and services to the customer, require that satisfactory security is provided and, if the delay in payment exceeds 30 days, cancel the Agreement.
- 4.5** The customer is not entitled to offset any counterclaims against Delinuts Nordics that have not been communicated in writing within a stipulated time. Neither is the customer entitled to offset another claim that the customer has against Delinuts Nordics against part of the payment.

## **5 Transfer of right of possession**

- 5.1** Delinuts Nordics retains right of possession for the delivered products until the purchase sum has been paid in full. During the period during which Delinuts Nordics still has right of possession, the customer shall store the products separately on behalf of Delinuts Nordics. If the customer fails to pay the entire purchase sum for the products in accordance with the payment terms set out in the invoice, Delinuts Nordics is entitled to take back the products, without advance notification, and charge the customer for all of its additional costs.
- 5.2** Notwithstanding that stated in paragraph 5.1 above, the customer shall be entitled to use the products in its regular production before the entire purchase sum has been paid and the right of possession clause shall apply to the portion of the products that are intact at the time.
- 5.3** In the case of refinement or utilisation of the sold products in accordance with 5.2 above, the right of possession clause is upheld to an extent corresponding to the value of the products at the time of sale.
- 5.4** The risk of loss of or damage to the products transfers to the customer immediately after delivery of those products has taken place in accordance with the applicable delivery terms.

## **6 Delivery**

- 6.1** Products shall, unless otherwise agreed in writing, be delivered to the customer's delivery address, DDP for delivery in Sweden and DAP for delivery to other countries in accordance with Incoterms 2010.
- 6.2** The delivery time is stated according to the best estimate. If necessary, Delinuts Nordics is entitled to extend the agreed delivery time, provided that Delinuts Nordics notifies the customer of the extension in advance.
- 6.3** If delivery is delayed due to circumstances within the customer's control, or if the customer specifies delivery later than that indicated by the Agreement, the delivery shall be deemed to have been carried out and the products shall be stored on behalf of the customer at the customer's expense.
- 6.4** If delivery is delayed by causes beyond Delinuts Nordics's control (force majeure), delivery shall be postponed until such a time that these obstacles to delivery no longer exist. In any case, either party can cancel the delivery in question if such an obstacle persists for a period of more than three months. This applies whether or not the obstacle to delivery occurs before or after the agreed time of delivery.

## **7 Goods produced according to the buyer's specification and bulk deliveries**

- 7.1** As regards goods produced in accordance with the customer's specification or delivered in bulk (by tanker etc.), Delinuts Nordics is entitled to deliver the agreed quantity +/- 10%. If the customer is unable to

receive the entire volume ordered, Delinuts Nordics is entitled to invoice the customer for Delinuts Nordics additional costs in relation to this. The customer must pay for the actual volume delivered.

## **8 Packaging**

- 8.1** Packaging is purchased on behalf of the customer and at the customer's expense, unless otherwise agreed in writing. If the agreed price of the product includes packaging, this shall be evident from the Agreement.
- 8.2** Purchases of packaging are made in accordance with the customer's forecasts. Packaging that is specific to the customer (i.e. printed with the customer's brand or similar, with a form or function specified by the customer, or that is designed and specified by the customer in some way) shall be paid for by the customer if the customer buys smaller volumes than forecast. This means that packaging that is superfluous because the customer buys a smaller volume than forecast shall always be paid for in its entirety by the customer.

## **9 Secrecy**

- 9.1** Each party undertakes for the duration of the agreement and thereafter not to disclose information (whether it is verbal or in written, electronic or another form) about the other party's operation which can be regarded as a commercial or trade secret (including but not limited to product specifications, drawings, technical design solutions and cost estimates) to a third party or otherwise use such information for any other purpose than the party's discharge of its commitments in accordance with the Agreement without the other party's written consent. Information that a party has specified is confidential shall always be deemed to be a commercial or trade secret.
- 9.2** The duty of confidentiality does not apply to information that a party can show was disclosed to it in a way other than through the Agreement or information that is common knowledge. Neither does the duty of confidentiality apply if a party is obliged to disclose information by law, another statute or an official decision.

## **10 Faulty products**

- 10.1** Delinuts Nordics undertakes to deliver products in the quantity set out in Delinuts Nordics's order confirmation (with any adjustment in accordance with point 7 above) that correspond to the goods' product specification, technical data sheet or certificate of analysis.
- 10.2** If a delivery deviates from that set out in point 10.1 and the buyer makes a complaint about this in accordance with the procedure set out below, Delinuts Nordics is obliged to remedy the situation by addressing the shortcoming, providing a replacement or granting the customer a fair discount.
- 10.3** Upon receipt the customer is obliged to immediately carry out an examination of the delivered goods as required for customary business use and to determine the goods' condition, and to complain to Delinuts Nordics in writing about any faults or shortcomings that were discovered or should have been discovered during such an examination as soon as possible but no later than within seven calendar days.
- 10.4** Delinuts Nordics is only responsible for faults or shortcomings that have arisen in connection with transport for which Delinuts Nordics is responsible if such faults or shortcomings are clearly noted by the responsible driver in the consignment note.

- 10.5** Complaints about faults or shortcomings that were not possible to discover during the examination described in point 10.3 above shall be made as soon as possible after they are discovered or should have been discovered.
- 10.6** Delinuts Nordics is not responsible for faults or shortcomings if the complaints are not made in accordance with the above procedure. Unless otherwise specified in binding law, Delinuts Nordics is never responsible for faults or shortcomings if the complaints are made more than three months after the delivery date.
- 10.7** In the event of complaints approved by Delinuts Nordics, Delinuts Nordics can elect to ensure that either the shortcoming is remedied, a new product is delivered or the customer is given a fair discount. The customer cannot claim any other consequence.

## **11 Limitation of liability and force majeure**

- 11.1** Delinuts Nordics provides no guarantees or promises regarding delivered products or services other than what follows from point 10.1 above. Unless otherwise specified in binding law, Delinuts Nordics is only responsible for direct damage that (i) arises as a result of a breach of point 10.1 above, or (ii) occurred during transport for which Delinuts Nordics is, according to the Agreement, responsible and which has been handled in accordance with the procedure in point 10.4 above, and then in the way specified in point 10.7 above. Delinuts Nordics is not responsible for operational stoppages, losses, loss of goodwill or other indirect costs or damages that arise due to delayed delivery or product shortcomings. In any case, Delinuts Nordics's total liability under the Agreement is restricted to SEK 1,000,000. Delinuts Nordics is never responsible for damage or losses arising from Delinuts Nordics's advice or recommendations.
- 11.2** Delinuts Nordics is not liable to the customer for discontinuing, restricting or postponing delivery to the extent that discharge of the delivery is rendered impossible or substantially more difficult or more expensive due to circumstances beyond Delinuts Nordics's control, such as war-like events, insurrections or riots, suspensions in general relations, export and import restrictions, legal regulations or other decrees by authorities in Sweden or abroad, strikes, lockouts, blockades or other obstacles to work, traffic accidents, flooding, fires, explosions or other accidents, or due to faults or delays in services from subcontractors due to the above-mentioned circumstances.

## **12 Returns**

- 12.1** Returns are only received following written approval from Delinuts Nordics.
- 12.2** In such cases where the customer is authorised to cancel the Agreement or the product is returned to Delinuts Nordics for measures to tackle a shortcoming, the product shall be returned to Delinuts Nordics in its original packaging or equivalent at the customer's risk and expense. In the event that Delinuts Nordics is subject to transport costs or similar, Delinuts Nordics is entitled to claim this from the customer or deduct it from any compensation or other debt. When tackling a General Conditions of Sale of Delinuts Nordics 3 - 3 shortcoming in a product, the customer must collect the product from Delinuts Nordics or transport the product at its own risk and expense.

## **13 Product liability**

- 13.1** Product liability is subject to Swedish law at any point. In cases where the matter is not covered by Swedish law, the same rules apply as under point 0.

## **14 Volumes, delivery times etc.**

- 14.1** Upon signing an Agreement with a specified volume, the parties shall be deemed to have agreed to the purchase of the whole of the specified volume and the customer shall take delivery of this volume within the term of the Agreement. The customer is entitled to ask to (i) have the whole of the ordered volume delivered at the same time, or (ii) receive part deliveries of the ordered volume at predetermined times, or (iii) call off part deliveries up to the ordered volume, during the term of the Agreement. The customer's choice must be specified when the Agreement is signed. If no such choice is made, the customer is deemed to have chosen option (iii) above (to call off part deliveries). If the customer has chosen option (iii) above (to call off part deliveries ) and not all of the agreed volume has been called off and delivered during the term of the Agreement, and this is due to circumstances attributable to the customer, the customer shall compensate Delinuts Nordics (including for positive contractual interest and all additional costs) for breaching the Agreement (i.e. the customer's omission to take delivery of the whole of the agreed volume). If no term or delivery period has been specified for an Agreement, the term is considered to be one (1) year from the customer's order.
- 14.2** Agreements that do not contain a specified volume shall be deemed to be general agreements that must always be supplemented with a tangible order for particular volumes. If such an order is placed, the rules in point 14.1 above apply.

## **15 Transfer of rights and obligations**

- 15.1** The Agreement may not be transferred, either in its entirety or partially, without the other party's written approval. Delinuts Nordics is, however, entitled to transfer the Agreement together with its rights and obligations to another company within the group.

## **16 Applicable law and disputes**

- 16.1** The parties' Agreement shall be subject to Swedish law. Disputes arising from this Agreement shall ultimately be settled through the arbitration procedure administered by Stockholm Chamber of Commerce's Arbitration Institute (SCC). The Rules for Expedited Arbitrations shall be applied unless, after taking into account the degree of difficulty of the case, the value of the civil case and other circumstances, the SCC concludes that the Arbitration Rules shall apply. In the event of the latter, the SCC shall also decide whether the arbitral tribunal shall comprise one or three arbitrators. The seat of arbitration shall be Malmö. Irrespective of the above, Delinuts Nordics shall always be entitled to apply for orders to pay or bring action for non-payment at public court, whereby Malmö District Court shall be the court of first instance.

## **17 Miscellaneous**

- 17.1** Information and prices are provided subject to printing and typing errors, errors in the stated product specifications and selling out.
- 17.2** Information provided to the customer does not constitute any promise of usability, suitability or guarantee unless this is directly stated to the customer in writing.
- 17.3** Delinuts Nordics reserves the right to change these General Terms of Sale at any time. Any changes apply to orders placed from the time the updated terms are published on Delinuts Nordics's website.

- 17.4** Delinuts Nordics reserves the right to take samples of products on behalf of authorities. These packs will be resealed and considered to be sound goods.
- 17.5** Delinuts Nordics owns all rights, including intellectual property rights, relating to the products, including but not limited to recipes, concepts, trademarks, protection of designs, copyright and patents. The customer does not acquire any intellectual property rights or other rights through the Agreement. Rights that are developed during the Agreement or in connection with the Agreement shall always be the exclusive property of Delinuts Nordics.
- 17.6** If the buyer's line of conduct or financial circumstances are such that they give Delinuts Nordics good reason to assume that the buyer will be unable to fulfil its payment obligation, Delinuts Nordics is entitled to require that the buyer pledge acceptable security for the Agreement's fair fulfilment. If the buyer fails to pledge acceptable security without delay, Delinuts Nordics is entitled to cancel the Agreement.
- 17.7** Delinuts Nordics is entitled to cancel the Agreement without first demanding security if the buyer is declared bankrupt or otherwise due to insolvency cannot be expected to discharge its commitments in accordance with the Agreement.