

# TRIANON CHOCOLATIERS

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## General Terms and Conditions Governing Sales and Supplies

of **Trianon Chocolatiers B.V.**, having its registered office and place of business at Spaanderstraat 12 in (5348 LA) Oss, the Netherlands, and registered with the Chamber of Commerce under Number 17198255.

### Article 1 – Definitions

**Trianon:** the private company with limited liability, Trianon Chocolatiers B.V., having its registered office in Oss, as well as all of the companies directly or indirectly associated with it;

**Client:** Trianon's contracting party;

**Agreement(s):** any agreement which Trianon, acting in its capacity as a seller, concludes with a Client acting in its capacity as a buyer of Products sold by the former to the latter based on an Offer made by Trianon;

**Offer(s):** any offer, quotation and/or notice of confirmation of an order issued by Trianon verbally, through its website or by mail, email or fax and/or notice of the acceptance of an order issued by it in writing or by email in relation to the sale of any Product;

**Products:** any item which Trianon offers for sale and supply consisting of foodstuffs, in particular, confectionery along with any packaging for same in the broadest sense of the term.

### Article 2 – Scope of application

- 2.1 These general terms and conditions shall govern all Offers made to and Agreements concluded with a Client, as well as any other additional contract which may be entered into pursuant to same.
- 2.2 These terms and conditions shall also govern any Agreement for the purpose of whose execution another party is engaged.
- 2.3 Any derogating or different provisions shall only apply in relation to any Agreement, provided that Trianon provides the relevant Client with written confirmation of the conclusion of that Agreement beforehand.
- 2.4 A Client's acceptance and retention of an Offer governed by these terms and conditions in the absence of any comment shall be deemed to constitute consent to the application of these terms and conditions.

### Article 3 – Offer(s)

- 3.1 An Offer shall be free of obligation, unless it explicitly stipulates a deadline for its acceptance and that deadline has not yet passed.
- 3.2 Any notice of acceptance which in any way derogates from the relevant Offer shall not be binding on Trianon, unless the latter provides the Client concerned with written confirmation to the contrary.
- 3.3 A Client shall be required to satisfy themselves that the Products which they have ordered based on the Offer(s) made, including the packaging and description thereof comply with any applicable government regulations in the consignee country, and shall have a duty to draw Trianon's attention to any relevant anomaly and/or inaccuracy in this respect.
- 3.4 A Client shall be responsible for and bear any risks pertaining to the introduction of any Products which do not comply with the requirements stipulated by any public authority into commercial circulation, and their use.

### Article 4 – Conclusion and execution of an Agreement

- 4.1 An Agreement shall not be concluded until Trianon presents the relevant Client with confirmation in writing or by email to the effect that it will fulfil the relevant Offer accepted and/or order placed by that Client.
- 4.2 Trianon shall execute an Agreement to the best of its ability. Trianon shall be at liberty to arrange for another party to execute part of an Agreement in the event that and in so far as this is required to ensure that it is executed properly
- 4.3 A Client shall ensure that all of the information which is required to ensure that the relevant Agreement is executed properly is provided to Trianon in the form which the latter requires.

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- 4.4 Trianon shall not be liable for a loss of any nature whatsoever which is suffered as a result of the information that the relevant Client is to provide to Trianon being inaccurate, incomplete and/or supplied late.

## **Article 5 – Delivery**

- 5.1 Any delivery time or deadline stipulated in the Agreement shall be deemed to be an estimate and may not be treated as a material deadline. Failure to meet a deadline shall not impose a duty on Trianon to provide compensation, nor shall it confer entitlement on the relevant Client to suspend or fail to comply with their obligations pursuant to the Agreement concerned. In the event that an Agreement stipulates that the relevant Client must effect payment in advance, the delivery time shall not commence until such time as Trianon has received that payment.
- 5.2 Delivery of the Products shall be effected at Trianon's business location(s). As such, the Products shall be transported and/or sent at the relevant Client's risk unless otherwise agreed. A Client shall have a duty to take receipt of the Products immediately after their arrival at their destination. A Client shall bear any risk and expense pertaining to the relevant Products as of the time that they are delivered, even where ownership thereof has not yet passed. All of the risks of any Products being lost, stolen and/or damaged shall pass to the relevant Client at the time when they are delivered.

## **Article 6 – Defects and complaints**

- 6.1 A Client shall be required to closely inspect any Products which are delivered immediately after receiving them on pain of the lapse of any entitlement to file a complaint and/or obtain a replacement. Any complaint concerning the quantity of Products must be noted on the relevant waybill or delivery slip upon delivery, in the absence of which the quantities stipulated on the waybill or delivery slip shall constitute compelling evidence against the Client concerned.
- 6.2 A Client shall be required to notify Trianon in writing of any defect in or pertaining to the relevant Products by no later than eight (8) working days after such defect occurs but at any rate within two (2) months after delivery. Any claim which a Client has against Trianon shall lapse in the event of a failure to lodge a timely complaint. In the event that a Client files a complaint, they shall have a duty to afford Trianon an opportunity to inspect the relevant Products (or arrange for this to be done) so as to be able to establish the nature and scope of any deficiency. A Client shall have a duty to ensure that the relevant Products remain at Trianon's disposal on pain of the lapse of any entitlement to lodge a complaint and/or obtain a replacement or compensation.
- 6.3 Any defect pertaining to part of the Products supplied shall not confer on the relevant Client entitlement to reject or decline the entire consignment of the Products which have been delivered.
- 6.4 A Client shall be required to notify Trianon in writing of any inaccuracy in any of the latter's invoices within fourteen (14) days after the relevant invoice date, in the absence of which that Client shall be deemed to have approved the invoice concerned.
- 6.5 A complaint shall not suspend the relevant Client's financial obligations.

## **Article 7 – Retention of title**

- 7.1 Trianon shall retain ownership of all Products that have been supplied or are still to be delivered until such time as the relevant Client has paid all of its claims pertaining to those Products in full, which is deemed to include any failure to comply with one (1) or more Agreements.
- 7.2 In the event that a Client fails to comply with their obligations, Trianon shall be entitled to recover the Products which have been supplied subject to retention of title from the place where they are located at that Client's expense (or to arrange for this to be done).
- 7.3 Any Trianon Products that have been supplied subject to retention of title may not be pledged, nor may ownership thereof be transferred. The relevant Client shall have a duty to store such Products carefully as Trianon's recognisable property.
- 7.4 A Client may only sell any Products supplied by Trianon subject to retention of title in the course of their normal business operations but under no circumstances may they be used as a means of payment.

## **Article 8 – Payment**

- 8.1 Unless otherwise stipulated in an Agreement, Trianon's invoices must be paid in the manner stipulated in the invoice concerned within fourteen (14) days after the relevant invoice date. Any objection to an invoice shall not suspend the duty to pay it.

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- 8.2 Trianon shall at all times be entitled to seek full or partial payment in advance and/or to require security to ensure payment in some other way.
- 8.3 In the event that Trianon has good grounds to fear that a Client will not (or will not be able to) comply with its obligations pursuant to an Agreement, Trianon shall be entitled to suspend its obligations pursuant to that Agreement until such time as that Client tenders security to ensure compliance with their obligations pursuant to that Agreement to the satisfaction of Trianon and at the latter's request.
- 8.4 Should timely payment not be received, the relevant Client shall be in default in the absence of any prior notice to this effect and shall be liable for interest equivalent to 1.5% of the outstanding invoice amount per month as of the due date until that of payment.
- 8.5 The relevant Client shall be liable for all relevant debt collection expenses. Extrajudicial expenses shall be deemed to amount to the equivalent of no less than 15% of the amount to be collected subject to a minimum of EUR 250.00 in so far as the relevant Client has their registered office in the Netherlands, and 25% subject to a minimum of EUR 500.00 where the Client has their registered office outside the Netherlands.
- 8.6 A Client shall not be permitted to set off any debt which it owes Trianon pursuant to an Agreement or on any other grounds against any claim which Trianon may have against the Client pursuant to an Agreement or on any other grounds.
- 8.7 Any payment made by a Client shall first serve to pay off any interest and charges for which they are liable and thereafter the longest outstanding invoice which is payable, even in those cases in which a Client indicates that it is to serve as payment for a subsequent invoice.

## Article 9 – Liability

- 9.1 With the exception of what is stipulated in Article 6, a Client shall not have any single claim against Trianon pursuant to a defect in or in relation to any Products supplied or made available by Trianon except in the case of a wilful act or omission, or gross negligence on the part of Trianon. A Client may only hold Trianon liable for any loss which is an immediate, direct result of a culpable failure on the part of Trianon to comply with its obligations pursuant to an Agreement.
- 9.2 A Client shall bear any risk or expense pursuant to any damage inflicted on a Product due to the destruction or damage of its packaging.
- 9.3 In any situation in which Trianon has a duty to pay compensation, the amount concerned shall not exceed the invoice value of the Products which have been supplied as a result of or in connection with which a loss has been occasioned subject to a maximum of EUR 10,000.00.
- 9.4 Any claim for compensation shall lapse upon the expiry of a period of twelve (12) months after such claim arises.
- 9.5 A Client shall have a duty to indemnify or hold Trianon harmless against or in relation to any claim made by a third party for compensation for any loss in respect of which Trianon's liability is excluded in its relationship with that Client pursuant to these terms and conditions.

## Article 10 – Final provisions

- 10.1 In addition to any remedies afforded by the law, Trianon shall be entitled to cancel an Agreement without judicial intervention or any duty to provide compensation in the event that the relevant Client is declared bankrupt, is granted a moratorium on payments, provisional or otherwise, an application filed by the Client to have the debt rescheduling procedure apply is allowed or the Client loses disposal over their assets or part thereof due to their attachment, or the appointment of a guardian, irrespective of whether such a situation is irrevocable or not. In the event of cancellation Trianon shall remain entitled to full compensation for any loss which it has suffered.
- 10.2 Any dispute which may arise pursuant to an Agreement shall only be adjudicated by a competent judge in the District Court of East Brabant having its seat in 's-Hertogenbosch, except in so far as any mandatory rules of jurisdiction would pose an obstacle to this choice of forum.
- 10.3 This Agreement shall be governed by and construed in accordance with the law of the Netherlands. The application of any international treaty governing the purchase of movable, material items whose operation the parties are entitled to exclude shall not apply and are hereby explicitly precluded.
- 10.4 In the event of any lack of clarity and/or disagreement concerning the nature and interpretation of these general terms and conditions, the Dutch text shall be binding even where they have been translated.

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- 10.5 In the event that one (1) or more provisions of these terms and conditions are void or may be nullified, their remaining provisions shall continue to apply in full. Should any provision of these terms and conditions or an Agreement be invalid, the parties shall conduct negotiations with each other concerning the nature of a new provision and shall adopt same, the new provision approximating the meaning of the original one as far as possible.