

## General Terms and Conditions for the Supply of Products and Services by PITT cooking

PITT cooking:	PCS B.V., PCI B.V. and its affiliated enterprises;
Partner:	The company with which PITT cooking has entered into a partner agreement (in this agreement, the term Partner shall also include the distributor or a purchaser in general);
Order:	The order received by PITT cooking (by email);
Partner Agreement:	The (partner) agreement between the Partner and PITT cooking (partner agreement shall include the distributor agreement and the agreement with a direct purchaser)
Services:	The (oral) information and advice provided by PITT cooking regarding the use of PITT cooking's products;
Supply Agreement:	The agreement established between PITT cooking and the Partner relating to the supply of Products as apparent from (among other things) the order confirmation;
Products:	The products sold and/or supplied by PITT cooking to the Partner;

### 1. General

- 1.1 These general terms and conditions apply to all offers made by PITT cooking, the Partner Agreement and all Supply Agreements between PITT cooking and the Partner as well as to Orders placed with PITT cooking by the Partner.
- 1.2 General terms and conditions used by the Partner or which are referred to by Partner in any way are hereby expressly rejected.
- 1.3 Deviations from these general terms and conditions must be confirmed explicitly and in writing.
- 1.4 In the event of discrepancies between the text of these general terms and conditions and the provisions of the Partner Agreement or the Supply Agreement, the provisions of these agreements shall prevail.
- 1.5 If any provision in these general terms and conditions is voidable because it constitutes a breach of a mandatory statutory provision, the other provisions of these general terms and conditions shall remain in effect. Parties shall consult with each other to agree to new valid and/or binding provision to replace the void or unbinding provision.
- 1.6 The Partner shall make every effort to develop and promote the distribution and sale of the Products.

### 2. Offers

- 2.1 PITT cooking cannot be held to offers in the event that the Partner may reasonably assume that these offers, or part thereof, contain an obvious error or typo.
- 2.2 The prices listed by PITT cooking in its offers are exclusive of VAT and other government levies as well as of shipping costs, transport costs and pack(ag)ing costs, unless expressly stated otherwise.
- 2.3 Should the acceptance differ from the offer, PITT cooking shall not be bound by it.
- 2.4 Offers and/or varying conditions do not automatically apply to future Orders.

### 3. Order and Agreement

- 3.1 A Supply Agreement shall only be established after the Order has been confirmed by PITT cooking (by email), or by PITT cooking starting the execution of the Order.
- 3.2 PITT cooking is entitled to fully or partially reject the Order placed by the Partner, such at its own discretion and without being obligated to pay damages. PITT cooking is obligated to inform the Partner of the reason for its rejection.

- 3.3 The Partner is only entitled to cancel the Order it has placed with PITT cooking's permission, provided always that it will compensate any costs already incurred by PITT cooking.
- 3.4 The Order, including the information supplied with it, shall always be at the risk of the Partner.

#### **4. Price and Payment**

- 4.1 Unless otherwise agreed in writing, the purchase price shall be exclusive of VAT and other government levies, as well as exclusive of all necessary costs pertaining to the execution of the Supply Agreement, including, but not limited to, the costs of transportation, packaging, insurance et cetera, unless explicitly stated otherwise.
- 4.2 The Partner is not authorized to suspend its obligations towards PITT cooking or set off or deduct any claims it might have on Pitt cooking against that which the Partner owes to PITT cooking.
- 4.3 The Partner is obligated to pay the purchase price within 30 (thirty) days unless otherwise agreed.
- 4.4 Upon expiry of the payment term, the Partner shall be in default by operation of law and shall therefore owe statutory commercial interest on the purchase price including all levies and/or costs. The interest due on the payable amount shall be calculated from the time that Partner is in default to the time that the amount is settled in full.
- 4.5 Should the Partner not meet its payment obligations, PITT cooking reserves the right to cancel or suspend the performance of all current Agreements between Parties until payment has been made in full.
- 4.6 All payments made by the Partner to PITT cooking shall first be deducted from the interest and costs Partner owes PITT cooking, subsequently to pay the oldest outstanding invoices.
- 4.7 PITT cooking may request that the Partner provides security, such as PITT cooking's discretion. This security may consist of an advance of part of the purchase price.
- 4.8 If the Partner is in default or breach of the (timely) fulfillment of its payment obligation, all costs, including extrajudicial costs incurred by PITT cooking as a result of Partner's nonfulfillment, shall be at Partner's expense.

#### **5. Delivery**

- 5.1 The ICC Incoterms 2010 apply to the delivery of the Order, ex works.
- 5.2 PITT cooking shall make every effort to ensure delivery within the agreed on delivery period. The delivery periods as indicated by PITT cooking shall never be considered fatal deadlines. Should this period be exceeded, PITT cooking shall contact the Partner and jointly consult on a new delivery date.
- 5.3 Exceeding of the delivery period does not entitle the Partner to full or partial termination of the Partner Agreement and/or Supply Agreement or the compensation of any damages suffered by the Partner, unless in the event of intent or gross negligence on the part of PITT cooking.
- 5.4 All Products delivered by PITT cooking shall remain property of PITT cooking until Partner has fulfilled all its payment obligations towards PITT cooking arising from the agreements for the supply of Products established between Partner and PITT cooking. Ownership of the Products shall be transferred upon the Partner's full payment of all Products that are part of the same order subject to the condition that no other payments of any other Orders are due and payable at that time. In the event of the latter, the transfer of ownership shall be postponed until all payments for these Products have been made or all receivables have been paid in full.
- 5.5 Should the Partner be in default with regard to the fulfilment of its payment obligations towards PITT cooking or should PITT cooking have proper ground to fear that the Partner shall fail in its obligations, PITT cooking is entitled to take repossession of the Products delivered

subject to the retention of title and shall be irrevocably authorized to enter the business space of Partner to do so. This right does not impair any other rights of PITT cooking. In the event of a repossession, the Partner shall be obligated to provide full cooperation and provide PITT cooking with all necessary information immediately on request.

- 5.6 Any costs arising from circumstances which prevent a delivery from being made in the agreed on manner, not due to any fault on the part of PITT cooking, may be charged to the Partner by PITT cooking.
- 5.7 The Partner is obligated to take acceptance the Order when it is put at its disposal in accordance with the Supply Agreement or at such a time that PITT cooking delivers the Order or has the Order delivered by a third party.
- 5.8 Should the Partner refuse delivery or be negligent in providing the necessary information or instructions for delivery, PITT cooking shall be entitled to store the items or take back the items at the expense and risk of the Partner.
- 5.9 Any costs related to the delivery which were incurred by PITT cooking at the express request of the Partner, shall be at the expense of the Partner.

## 6. Force Majeure

- 6.1 PITT cooking cannot be held to the observance of any obligation towards the Partner if it is hindered by force majeure.
- 6.2 In these general terms and conditions force majeure is defined, in addition to the definition stated in the relevant laws and jurisdiction, as all external causes, whether anticipated or not anticipated, on which PITT cooking has no influence, yet which render PITT cooking unable to fulfill its obligations under the Partner Agreement and/or the Supply Agreement.
- 6.3 PITT cooking may suspend its obligations pursuant to the Partner Agreement and/or Supply Agreement for the duration of the force majeure. Should this period exceed six months, both parties are entitled to terminate the Supply Agreement, without this being cause for a claim of damages by either party.
- 6.4 Should PITT cooking be able to perform, or have performed, part of its obligations arising from the Supply Agreement during the period of force majeure, it shall be entitled to separately invoice the part which has performed or will be performing. The Partner is obliged to pay this invoice as if it were part of a separate Supply Agreement.

## 7. Notice and Termination of Agreements

- 7.1 Both the Partner Agreement and the Supply Agreement can be terminated by PITT cooking in writing, with immediate effect and without judicial intervention, when:
  - after the establishment of the Partner Agreement, PITT cooking learns of any circumstances that provide reasonable grounds to fear that the Partner will not fulfill its obligations.
  - the Partner remains in default with respect to the obligations it has under the Partner Agreement, the Supply Agreement or these general terms and conditions, even after a written notice of default with a reasonable remedy period was given and expiry of the period set in this notice.

In the aforementioned situations, the claims that PITT cooking has on the Partner fall due and payable, such without prejudice to PITT cooking's right to claim full damages.

- 7.2 Termination as referred to in article 7.1 shall occur through a written notice sent to the Partner by registered post.

- 7.3 Without prejudice to the provisions in the previous paragraph, the Partner Agreement and the Supply Agreement may be terminated by parties with immediate effect and without judicial intervention, when:
- the other party is granted a (provisional) moratorium, is declared bankrupt, offers its creditors private composition or in any other way fully or partially loses the right to freely dispose of its assets.
  - the other party ceases to exist or is dissolved as a result of a merger or a division.

Each party undertakes to inform the other party immediately upon the occurrence of a situation as listed in the previous paragraph.

## **8. Retention of Title and Risk**

- 8.1 All products sold and/or supplied by PITT cooking shall remain its property until the Partner has fulfilled all its obligations arising from the Partner Agreement as well as all Supply Agreements. Until such a time, the Partner is only considered to be holding the Products for PITT cooking.
- 8.2 The Partner may not transfer the title of the Products, assign them, pledge them or in any way use them as collateral.
- 8.3 Should third parties institute garnishee proceedings on the Products supplied subject to a retention of title or seek to encumber these Products or to seize these Products, the Partner is obligated to inform PITT cooking of this immediately.
- 8.4 If, after a written notice has been given, Partner remains in default of its obligations or if there is a reasonable fear that it will not fulfill these obligations, PITT cooking shall be entitled to retrieve, or have retrieved, the Products from the Partner or from any third parties holding the Products for Partner. The Partner is obligated to provide full cooperation with this process.

## **9. Guarantees**

- 9.1 The Products to be supplied by PITT cooking meet all customary requirements and standards which may reasonably be set at the time of delivery and for which they are intended with normal use. Furthermore, PITT cooking offers manufacturer's warranty on the Product to the end user, the terms of this guarantee are part of the manufacturer's warranty conditions.
- 9.2 Should PITT cooking have issued an explicit guarantee to the Partner, the terms of this guarantee shall apply instead of the provisions of the previous paragraph.
- 9.3 The Partner undertakes to provide the purchaser with all necessary information.
- 9.4 All (oral) information and advice provided by PITT cooking regarding the use of PITT cooking's products shall be provided without obligation and free of charge; PITT cooking does not provide any guarantee on the information it provides.

## **10. Inspection and Complaints**

- 10.1 Upon delivery, the Partner shall inspect the correctness of the Products in accordance with the Supply Agreement and shall report any visible faults, defects, damage and/or deviations in the numbers on the consignment note or accompanying receipt. In the absence of a consignment note or accompanying receipt, the other party shall report

any faults, defects et cetera to PITT cooking in writing within 24 hours after receipt of the items.

- 10.2 Other complaints must be lodged to PITT cooking in writing, immediately after discovery, yet no later than within the agreed guarantee period. Any consequences which arise from a report not being filed immediately shall be borne by Partner.
- 10.3 Any complaints with regard to Products of which the nature or composition has been altered by Partner or third parties after receipt, or which have been fully or partially modified or processed or are no longer in their original packaging, shall not be accepted.
- 10.4 Should the extent of the defects to the Products be such that these cannot be used for their intended purposes and should Partner have reported this to PITT cooking in a timely fashion, Partner is entitled to replacement of these Products, such at PITT cooking's discretion.

## **11. Liability**

- 11.1 Other than the guarantees explicitly agreed on or issued by PITT cooking, PITT cooking does not accept any liability arising from any cause, unless otherwise determined by law or covered by these general terms and conditions.
- 11.2 PITT cooking shall never be liable in the event of non-compliance with installation and processing instructions. Furthermore, PITT cooking shall never be liable for any damage arising from improper and inexpert assembly and/or use of the Products. Incorrect and/or inexpert assembly of a Product shall always include assembly in a manner deviating from the assembly instructions. Improper use shall always include use for other purposes than for which the Products were produced and/or use in deviation of the operating manual.
- 11.3 Without prejudice to the aforementioned paragraphs, any liability on the part of PITT cooking shall be limited to direct damage or loss within the meaning of article 11.5 and shall never include any indirect damages within the meaning of 11.6.
- 11.4 Without prejudice and in addition to the abovementioned provisions, the liability of PITT cooking shall be limited to the amount paid out by PITT cooking's liability insurer in the matter concerned, minus the policy excess. If and to the extent that the insurer does not pay out, yet liability on the part of PITT cooking is established, the damages shall be limited to the invoice amount of the product that gave rise to the damage.
- 11.5 For the purpose of this article, direct damages exclusively refer to the reasonable costs for the determination of the cause and the scope of the damage, to the extent that the determination relates to the damage for the purposes of these terms, any reasonable costs incurred to correct PITT cooking's defective performance of the Supply Agreement, to the extent that these costs are attributable to PITT cooking and the reasonable costs incurred to prevent or limit the damage, to the extent that Partner can prove that these costs have led to a limitation of direct damages as intended in these general terms and conditions.
- 11.6 For the purpose of this article, indirect damage shall always include consequential loss, for instance, lost profit, other trading losses suffered by a purchaser of the Partner and any damage as a result of Partner's (or its purchaser's) liability towards third parties.

11.7 The limitations of liability included in this article do not apply if the damage is the result of non-excludable intent or gross negligence on the part of PITT cooking. The burden of proof with respect to this supposed intent or gross negligence lies with the Partner.

## **12. Indemnification**

The Partner indemnifies PITT cooking against all damages it suffered as a result of any third-party claim for which PITT cooking has excluded its liability towards the Partner.

## **13. Intellectual Property Rights**

- 13.1 All data, images and drawings issued by PITT cooking are copyrighted. Without PITT cooking's express permission, the Partner is not permitted to copy or allow third parties inspection of these documents other than for the performance of the Partner Agreement.
- 13.2 The Partner acknowledges PITT cooking's exclusive right to use (a) (any) brand(s), utility models, drawings, copyrights, know-how, patents, emblems, trade names, domain names, color combinations, slogans, etc. relating the Products, including its right to, with observance of the Partner Agreement, grant distribution rights to third parties.
- 13.3 For the duration of the Partner Agreement, PITT cooking grants to the Partner a right of use of the trade name and the brand(s) of PITT cooking , such for the purpose of performance of the Partner Agreement.
- 13.4 The Partner undertakes to only and effectively use PITT cooking's intellectual property rights and trade name in relation to the sale or promotion of the Products. The Partner is not entitled to use PITT cooking's intellectual property rights or trade name as a component of its own trade name in any way.
- 13.5 The Partner may never remove or alter symbols, letters or any other characteristics applied to the Products unless this follows from the nature of the delivered item or unless otherwise agreed on in writing.
- 13.6 The Partner is obligated to confidentiality with regard to any knowledge it has gained about the intellectual rights in relation to the Products.
- 13.7 Termination of the Partner Agreement shall never release the Partner or its legal successors from the provisions of this article.

## **14. Information and Action in Case of Infringement**

- 14.1 Parties declare towards each other that they shall provide each other with all information and details relevant to the sale of the Products, including information regarding competing products, characteristics and quality of the Products, market developments, purchaser's requirements.
- 14.2 The Partner undertakes to inform PITT cooking immediately of all infringements made by third parties to PITT cooking's (intellectual property) rights, as well as all claims for damages made by third parties in regard with the Products and all else that has or may have a potential negative effect on the sale of the Products.
- 14.3 Should PITT cooking's rights be infringed, the Partner shall provide full cooperation to PITT cooking. More specifically, the Partner shall provide all information necessary to

prove the infringement in legal and other proceedings and shall provide its cooperation to the execution of court decisions.

- 14.4 The Partner is not entitled to handle legal or extrajudicial claims made by third parties with respect to the Products without prior consult with and written consent from PITT cooking. Should the Partner to act in violation of this provision, all claims for compensation made against PITT cooking in relation to a third party claim shall to cease to have effect.

## 15. Confidentiality

- 15.1 Both parties have an obligation to maintain confidentiality with respect to all confidential information they have obtained from each other or from any other source as a result of the Partner Agreement. Information is considered confidential when a party has indicated it is or when this arises from the nature of the information.
- 15.2 Parties will obligate their employees to maintain confidentiality with regard to all confidential information as described in paragraph 1 above. This obligation applies both during the term of the Partner Agreement as well as after its termination.
- 15.3 The Partner shall return all written documents that were issued to him by PITT cooking during the term of the Partner Agreement, such within five days after the termination of the Partner Agreement.

## 16. Applicable Law

- 16.1 Dutch law governs all legal relationships between PITT cooking and the Partner.
- 16.2 All disputes arising from the Partner Agreement or any subsequent agreements shall be brought before the competent court in Utrecht.

## 17. Penalty Clause

In the event of an infringement of one or more of the provisions in these terms, the Partner shall owe an immediately payable penalty of EUR 10.000,- for each infringement and EUR 1.000,- for each day the infringement continues, such without prejudice to PITT cooking's right to claim damages and seek other legal remedies.

*This is a translation of the original Dutch Terms and Conditions.  
In case of inconsistencies, the original Dutch text prevails*