



The  
**Peppermint**  
Company

## **General Terms and Conditions of The Peppermint Company**

### **Chapter I General**

#### **Article 1. Applicability of these terms and conditions**

1.1 These general terms and conditions of sale, hereinafter referred to as "Terms and Conditions", are applicable to all Agreements that The Peppermint Company enters into with Customers, as defined in these Terms and Conditions.

1.2 The "Agreement" is the consensus or legal relationship between the Peppermint Company and Customer to which these Terms and Conditions apply. These Terms and Conditions are accordingly also applicable to all offers and invoices by The Peppermint Company.

1.3 The "Customer" is the legal personality, person or organisation who buys products from The Peppermint Company.

1.4 "Products" are all the items that are sold by The Peppermint Company as part of its normal business operations.

1.5 To the extent that these Terms and Conditions or the Agreement refers to an internationally defined provision (including but not limited to EXW, CIF, DDP, etc.), this provision has the meaning that must be assigned to it on the basis of the 2000 Incoterms published by the International Chamber of Commerce.

1.6 Written provisions that expressly deviate from these Terms and Conditions between The Peppermint Company and a Customer or written offers from The Peppermint Company, including but not limited to price lists published periodically, pertaining for example to discounts, payment terms minimum orders, transport costs, etc. shall take precedence over and substitute for the provisions in these Terms and Conditions that pertain to the same subject matter. A written provision between The Peppermint Company and a Customer can also declare that provisions of these Terms and Conditions are fully or partially inapplicable to this Agreement.

1.7 If these Terms and Conditions have ever applied to an Agreement between The Peppermint Company and a Customer, these Terms and Conditions shall always apply to future and/or subsequent agreements between The Peppermint Company and Customers, even when not expressly referred to in these Terms and Conditions.



## **Chapter II Terms and Conditions of Sale**

### **Article 2 Offers and orders**

2.1 All offers of The Peppermint Company, made verbally or in writing, including offers included in a price list, are free of commitment unless The Peppermint Company expressly declares that an offer is not free of commitment in its order confirmation.

2.2 After acceptance by the Customer of an offer made by The Peppermint Company, The Peppermint Company has the right to revoke the offer within two working days after receipt of the acceptance of the offer.

2.3 The Agreement becomes official by means of written confirmation by The Peppermint Company of an order by the customer or by virtue of The Peppermint Company having started with the actual delivery of the items ordered. The Peppermint Company reserves the right to refuse orders without providing reasons.

### **Article 3 Prices**

3.1 Prices and other terms and conditions stated in offers by The Peppermint Company are based on the type and quantity of Products stated in the relevant order. If an order in respect of the nature, type or quantity of the Product or other terms and conditions of the nature, type or quantity of the Product or other terms and conditions of the order deviates or deviate from the offer, The Peppermint Company is not bound to maintain the prices, terms and conditions of its offer.

3.2 All prices are net, exclusive of taxes and levies (including turnover tax and import and export rights) and excluding other costs such as those of insurance and transport. All amounts are stated in euros.

3.3 The Peppermint Company is entitled to increase unilaterally the prices of the Products to be supplied. The Peppermint Company shall notify the Customer in writing if reasonably possible at least one month before the increase is to take effect.

3.4 If The Peppermint Company sets an increase of more than 5% of the agreed prices, the Customer is entitled to cancel the Agreement. If the Customer cancels the Agreement on these grounds, The Peppermint Company is not obligated to compensate the damage that the Customer might possibly incur as a result of the cancellation.



#### **Article 4 Payment**

4.1 The Peppermint Company is entitled at any time to demand full or partial advance payment of the agreement price or to demand cash on delivery.

4.2 The Peppermint Company reserves the right at any time to demand a security on the payment or advance payment, and fulfilment of its obligations can be suspended until the demanded collateral has been provided.

4.3 Payment of invoices must occur within 30 days after invoice date in the manner stated on the invoice. If the Customer sees reason to object to the amount of the invoice, he must do this in writing within 30 days of the invoice date. After the conclusion of this period, the Customer can no longer make claims regarding the inaccuracy of the invoice.

4.4 Payment is to be made stating the invoice number of the invoice for which the payment is being made. If the invoice number is not stated, the provisions of Article 6:43, subsection 2 of the Civil Code shall apply.

4.5 Payment of an invoice shall firstly be applied to reduce costs and then to pay interest that has accrued and finally to reduce the principal and current interest.

4.6 The period of 30 days is a strict deadline.. - In the event of late payment, the Customer is legally in default without any dunning or notice of default required.

#### **Article 5 Consequences of negligence on the Customer's part**

5.1 As soon as the Customer is in default in respect of one or more obligations vis-à-vis The Peppermint Company, all of the claims of The Peppermint Company that were not yet due shall become immediately payable by the Customer.

5.2 In the event of default on the part of the Customer, the Customer shall owe interest at 1.5% for each month or portion thereof exceeding the payment term. The interest owed is calculated over the portion of the total amount due (including turnover tax and expenses) that has not been paid.

5.3 In the event of default on the part of the Customer, the Customer is obligated to compensate all extrajudicial collection costs of The Peppermint Company. The collection expenses are calculated in accordance with the collection rate of the Netherlands Bar Association, with a minimum off € 75. The Peppermint Company is not obligated to demonstrate that it has in fact incurred the extrajudicial collection expenses amounting to aforesaid percentage or amount.



## **Article 6 Product Deliveries/Delivery Time**

6.1 The delivery time stated in an Agreement is illustrative. The Customer cannot derive any rights from failure to meet the delivery time. Accordingly, failure by The Peppermint Company to meet the stated delivery time shall never cause The Peppermint Company to be in default. The Customer is not entitled to compensation to any damage, directly or indirectly, as a result of failure to meet the delivery time agreed upon in the Agreement or otherwise agreed.

6.2 The delivery time stated in the Agreement shall in any case be extended by period in which the Customer is in default in respect of any obligation vis-à-vis The Peppermint Company or the period when the Peppermint Company is entitled to claim any right of suspension or force majeure.

6.3 As soon as The Peppermint Company has the ordered Products in its warehouse for delivery to the Customer, they shall report this to the Customer.

6.4 Delivery occurs by virtue of the fact that The Peppermint Company leaves the Products ready at a place it has specified on its business premises where these Products can be received after the Customer has signed a proof of receipt. After the Products have been received, they are at the Customer's risk.

6.5 If a period of eight days after The Peppermint Company has notified the Customer that the Products are ready for delivery has passed without the Customer having picked up these Products, the risk of the items shall transfer to the Customer. The Customer shall also owe The Peppermint Company repayment for use of the premises starting this date, equivalent to 1% of the weekly invoice amount, or a portion thereof, that the Products are ready for delivery.

6.6 If The Peppermint Company and the Customer have agreed that The Peppermint Company will deliver the Products to an address specified by the Customer, The Peppermint Company has met that obligation by delivering the products once to that address. Receipt at this address is for the Customer's risk. The Peppermint Company is not bound to examine whether the person who receives the Products is authorized to do so or the Customer has indicated the proper address. If during delivery, the Products are not accepted, the other terms in the Terms and Conditions regarding delivery shall apply, on the understanding that the risk of the property shall transfer to the Customer from the time that the Products are offered at the indicated address.

6.7 The Peppermint Company is permitted to have products delivered in portions. The provisions regarding delivery in these Terms and Conditions shall apply to each portion.



## **Article 7 Flaws upon delivery**

7.1 The Customer has the obligation upon delivery to examine whether the delivered Products are in fulfilment of the Agreement and whether the Products have visible exterior flaws. Such flaws must be reported without delay on the confirmation of receipt. If no visibly detectable flaws are reported on the confirmation of receipt, it will be assumed that the Products have been delivered without any such defects.

7.2 Defects that are not visibly detectable must be reported to The Peppermint Company within 2 weeks of their detection or the time when the defects could have been discovered in all reasonableness. Reporting defects that are not visibly detectable must in any case occur within a period of three months after delivery. Upon expiry of this period, the Customer can no longer file any claims against The Peppermint Company on the grounds that the Products exhibit defects or otherwise do not fulfil the Agreement, including in any case a claim extending to the repair, replacement of the item or damages and the claim for dissolution of the Agreement.

7.3 If defects are reported in a timely fashion, The Peppermint Company shall proceed to repair or replace the defect, if and insofar as the report is grounded in its opinion, or shall repay the reduction in value of the Product resulting from the defect, all exclusively at the discretion of The Peppermint Company. Under no circumstances shall the value of the performance that The Peppermint Company performs as a result of the report of the defect exceed the price of the faulty portion of the delivered products. The Peppermint Company is not liable for any damage resulting from the defect. Nor is The Peppermint Company bound to perform any other performance besides what it has opted for as a result of this provision.

7.4 Delivered items shall not be taken back by The Peppermint Company, unless The Peppermint Company wants to take back the items as a measure to repair reported defects in a timely fashion. If The Peppermint Company and Customer have expressly agreed in writing that Products may be returned by the Customer, whether or not subject to certain terms and conditions, the Customer shall return the entire order. The Products must be in their original state and in their original packaging. The costs of return shipments, including costs of transport, shall be for the Customer's account, unless the Products are returned with The Peppermint Company's permission on the basis of a founded reported of defects. The Peppermint Company shall credit the Customer for the invoice amount of these Products, minus the costs incurred for return and the amount of the value depreciation of the Products.



## **Article 8 Processed Products**

8.1 If The Peppermint Company receives orders from the Customer to deliver the Products that, at the Customer's request, have been supplied with a (printed) image or other processing, the Customer must provide timely instructions and reproducible materials of good quality as required to perform the instructions.

8.2 The Peppermint Company is exclusively bound prior to the delivery to send a proof or sample to the Customer if permission has been granted the Customer in writing before or at the time the order is submitted in writing. In that case, The Peppermint Company undertakes to show a proof or sample to the Customer, which proof or sample shall be deemed to have been accepted by the Customer if the Customer has not rejected the proof or sample in writing within five working days stating the reasons. The Customer accepts minor deviations in the proof or sample in advance. Minor deviations shall be understood to mean in any case but not exclusively differences in colour gradations. The Customer cannot derive any rights from such deviations vis-à-vis The Peppermint Company.

8.3 All costs in connection with the activities to be performed by The Peppermint Company for the purpose of the composition and processing of processed Products shall be for the Customer's account.

8.4 The Peppermint Company is entitled to supply a maximum of 10% more or less than the quantity of processed Products ordered by the Customer and to charge the Customer for them.

8.5 All rights of intellectual property, including but not limited to copyrights, model rights, etc. that are connected with or attached to the Products processed by The Peppermint Company shall fall to The Peppermint Company.

8.6 The Customer shall transfer ownership of all primary and secondary materials supplied to The Peppermint Company and that The Peppermint Company needs for processing the Products to be supplied to the Customer, including but not limited to moulds, films and goldmasters to The Peppermint Company. If requirements must be met for The Peppermint Company to acquire primary or secondary materials, or any other subsequent action must be performed, the Customer shall lend assistance with the completion or performance of such activities.

8.7 All costs that The Peppermint Company may incur in connection with the activities to be performed by The Peppermint Company for the composition and processing of the processed Products shall be charged separately to the Customer.

8.8 The provisions of Title 7, Section 1 of Book 7 of the Civil Code, as well as all other provisions of Book 7 of the Civil Code that arrange related items are not applicable to the activities that The Peppermint Company performs for the benefit of the Customer as intended in this article.



## **Article 9 Force Majeure**

9.1 Force majeure is understood to mean any circumstance as a consequence of which fulfilment (or continued fulfilment) of the Agreement by The Peppermint Company cannot be reasonably demanded. This includes in any case but is not limited to export and/or import bans, a prohibition imposed by a third party on The Peppermint Company from supplying products because of conflict with the rights of intellectual property of third parties, fire and other calamities that prohibit or limit business operations, lack of primary and secondary materials, transport restrictions, wars, unrest and government measures, regardless of whether these circumstances occur at The Peppermint Company or its suppliers.

9.2 In the event of force majeure on the part of The Peppermint Company, The Peppermint Company has the right, at its discretion, to suspend fulfilment of the Agreement or to fully or partially cancel the Agreement without The Peppermint Company being obligated to compensate any damage incurred by the Customer. Such force majeure does not give the Customer the right to fully or partially cancel the Agreement unless the Customer demonstrates that the damage that it has incurred as a result of the force majeure on the part of The Peppermint Company is so major that it cannot be demanded of the Customer or Supplier that it leaves the Agreement intact as regards the unfulfilled portion.

## **Article 10 Retention of title**

10.1 All products delivered by The Peppermint Company to the Customer are transferred subject to the suspensory condition that the Customer has satisfied all of the demands of The Peppermint Company on the Customer.

10.2 The provision in section 1 also applies to claims by The Peppermint Company because of the Customer's shortcoming in fulfilment of the Agreement.

10.3 If The Peppermint Company has real grounds to fear that the Customer will fall short in its payment obligations vis-à-vis The Peppermint Company, The Peppermint Company is entitled to repossess delivered products subject to retention of title. After repossession, the Customer will be credited for the market value of the repossessed Products. The market value shall under no circumstances exceed the original purchase price, minus the expenses incurred by The Peppermint Company in connection with repossession and any other amounts in respect of which The Peppermint Company can claim a set-off vis-à-vis the Customer.

## **Article 11 Dissolution/suspension/set-off**

11.1 The Peppermint Company is entitled, without prejudice to its rights under law, to cancel the Agreement with immediate effect in the event of bankruptcy, moratorium on payment or liquidation of the Customer's business or in the event of a fundamental change in the power relations of the Customer's enterprise.

11.2 The Customer does not have the right to file for cancellation, suspension, retention or set-off vis-à-vis The Peppermint Company.



## **Article 12 Liability**

12.1 Except in the case of gross negligence or wilful omission on the part of The Peppermint Company, The Peppermint Company is not liable for damage that is incurred by the Customer as a result of conduct on the part of The Peppermint Company (or a person for whom it is legally responsible) in the fulfilment of the Agreement or otherwise.

12.2 In the event The Peppermint Company is liable for damage incurred by the Customer, the damage that The Peppermint Company is obligated to repay shall never exceed the invoice value of the delivered Products whose defect was the cause of the damage, or if this cannot be determined, the invoice value of the Products that have been delivered to the Customer at the time the damage-causing event occurred.

## **Article 13 Indemnification and compensation**

The Customer indemnifies and shall compensate The Peppermint Company for all third-party claims in connection with the Agreement.

## **Chapter III Final provisions**

### **Article 14 Changes**

14.1 Changes, additions or modifications of the Agreement and these Terms and Conditions are only valid if they have been adopted by The Peppermint Company in a signed document.

14.2 As soon as these Terms and Conditions, with any changes, additions or modifications apply, all other agreements that applied previously between the parties shall expire.

### **Article 15 Partial nullification**

If a provision of the Agreement and/or these Terms and Conditions prove not to be valid, this shall not affect the validity of the Agreement as a whole. Parties shall adopt new provision(s) to replace the other(s), seeking to as closely approximate the intention of the original Agreement as much as legally possible.





#### **Article 16 Precedence of the Dutch text**

Insofar as a version of these Terms and Conditions in a language other than Dutch is circulated, the interpretation of the Terms and Conditions in the original Dutch text shall nonetheless apply.

#### **Article 17 Effective date**

The Terms and Conditions shall take effect on 1 January 2020.

#### **Article 18 Choice of law and forum**

18.1 The law of the Netherlands shall govern the legal relationship between The Peppermint Company and its Customers exclusively.

18.2 The parties shall bring all disputes between The Peppermint Company and its Customers in connection with or ensuing from an Agreement exclusively before the competent court in Arnhem, the Netherlands.