

# **GENERAL EXPORT CONDITIONS OF UNIEKAAS**

## **Article 1. Application**

- 1.1. These conditions are applicable to all export contracts concluded with the private company under Dutch law UNIEKAAS NEDERLAND B.V., the private company under Dutch law UNIEKAAS INTERNATIONAL B.V., the private company under Dutch law UNIEKAAS CASTRICUM B.V. or the company with legal personality under Cypriot law UNIEKAAS DIJKMAN LTD., the company concerned being hereinafter referred to as 'UnieKaas'. The contracting party that buys goods intended for export from UnieKaas is hereinafter referred to as 'the buyer'.
- 1.2. UnieKaas does not accept the applicability of other conditions unless they were expressly agreed in writing with the buyer.

## **Article 2. Offer; Price list**

- 2.1. Having due regard to the following conditions and subject to typesetting and printing errors, contracts shall be performed at the prices quoted in the price list published by UnieKaas valid at the time of delivery, unless UnieKaas has agreed a different price with the buyer.
- 2.2. The prices quoted by UnieKaas in a price list or otherwise offered by UnieKaas are based on its purchase prices and other cost factors. Changes in any of these price components after the publication of a price list but before the date of delivery shall entitle UnieKaas to amend its prices in the interval.
- 2.3. If the increase in price as referred to in article 2.2 is more than 15% the buyer may cancel the contract by written notification to UnieKaas within 24 hours after having received notification of the price increase, unless the increase results from a change to the contract or arises from a right to do so by law.
- 2.4. Prices stated are inclusive of packaging and exclusive of VAT and are quoted in euro, unless agreed otherwise in writing. Prices relate solely to the quantities specified in the quotation and do not apply to repeat orders.

## **Article 3 Contract**

- 3.1. A contract is formed with the relevant UnieKaas company if UnieKaas accepts an order placed by the buyer on the basis of a price list or a price specifically offered by UnieKaas. An order is deemed to have been accepted if UnieKaas has not expressly given notice to the contrary within seven (work) days of receipt of the order.
- 3.2. The risk of misinterpretation of orders given by telephone and not confirmed by the buyer in writing before their implementation is for the buyer's account.

## **Article 4 Delivery times**

- 4.1. Delivery periods are stated approximately unless expressly agreed otherwise in writing. The delivery period commences at the time when the contract is formed provided that UnieKaas has then received all the information required for the performance of the contract together with security for payment where required.

- 4.2. UnieKaas will observe delivery periods to the best of its ability. Failure by UnieKaas to deliver within the delivery period shall not entitle the buyer to cancel the contract or to receive any compensation from UnieKaas unless UnieKaas fails to deliver within a further reasonable period after having been declared in default by the buyer.
- 4.3. UnieKaas may deliver in successive instalments within the agreed delivery period; in that case, UnieKaas will determine the date of delivery.

#### **Article 5 Delivery**

- 5.1. Delivery is free carrier (FCA) from UnieKaas Export Europe in Castricum unless expressly agreed otherwise in writing. Delivery terms are in accordance with the ICC Incoterms 2000, unless expressly agreed otherwise in writing.
- 5.2. UnieKaas is entitled to deliver on every workday between 7.00 a.m. and 7.30 p.m. to the address specified by the buyer, unless the buyer has expressly agreed a time of delivery with UnieKaas in writing.
- 5.3. The time of delivery is the time when the products to be delivered are taken receipt of by or on behalf of the buyer at the place of delivery. From the time of delivery the products are entirely for the risk of the buyer.
- 5.4. UnieKaas is entitled to charge the buyer for additional costs of deliveries and official levies, such as import duties and transport, customs, shipping and other handling costs, if and insofar as these costs have been payable by UnieKaas.

#### **Article 6 Complaints**

- 6.1. The buyer is obliged to inspect the products for the quantity and visible defects immediately upon delivery. A weight difference of less than 0.5% in the quantity delivered or defects in the packaging shall not be regarded as a deviation from the agreed quantity supplied and hence a breach of contract. If the quantity delivered differs by more than 0.5% from the agreed quantity or if defects are discovered, the buyer must immediately note the fact on the receipt and report the fact directly to UnieKaas within 24 hours of delivery.
- 6.2. Defects that could not reasonably have been discovered during a normal and careful inspection at the time of delivery must be reported by the buyer in writing to UnieKaas within 14 days of delivery and within 24 hours of their discovery.
- 6.3. If the quantity delivered differs by more than 0.5% from the quantity that was agreed or if defects are discovered, having due regard to the provisions of article 6.1. and article 6.2. the buyer only has the right to wholly or partially cancel the contract and a right to damages after he has notified UnieKaas of its default in writing and allowed UnieKaas a reasonable period within which to deliver the missing products or to supply replacement products.
- 6.4. The buyer must retain the products in which he has discovered defects for one month from the time of delivery or, if the defects could not reasonably have been discovered during a normal and careful inspection at the time of delivery, for one month after the written notification referred to in article 6.1. or article 6.2 at his own expense for UnieKaas, unless the buyer demonstrates that this cannot reasonably be demanded of him.
- 6.5. Every right of the buyer to make a complaint with respect to the quantity delivered or defects shall lapse if:

- a. the complaints referred to in article 6.1. are not noted on the receipt and the buyer has not notified the defects directly to UnieKaas within 24 hours of delivery;
- b. the buyer has not notified KaasUnie in writing of the complaints referred to in article 6.2 within the specified period of 14 days and within 24 hours of discovering them;
- c. the products in which the buyer has discovered defects were not held for UnieKaas for the period specified in article 6.4; or
- d. after the time of delivery the nature or composition of the products was changed or the products were wholly or partially damaged or repacked.

#### **Article 7 Liability**

- 7.1. Without prejudice to the other provisions of these conditions UnieKaas is only liable to the buyer on the basis of an attributable breach of contract or an attributable unlawful act for the damage that is a direct and typical consequence of it. UnieKaas is not liable for damage as a result of loss of turnover or profit, trading loss or loss from stagnation of the business and other indirect damage on the part of the buyer, or for damage to third parties for any reason and in any form whatever.
- 7.2. In all cases where UnieKaas has an obligation to pay damages to the buyer the amount of the liability is always limited to a maximum of € 100,000 (one hundred thousand euro).
- 7.3. UnieKaas excludes all liability with respect to the use of the symbol referred to in the International Article Numbering Association (E.A.N.) regulation unless UnieKaas has failed to follow rules from the EAN regulation.

#### **Article 8 Recall**

- 8.1. If UnieKaas considers that it has grounds for fearing that products manufactured and/or brought onto the market by UnieKaas could, for any reason whatever, pose risks for the safety or health of the user during their normal or reasonably likely useful life or if there is an indication of the need to do so to prevent such risks, UnieKaas shall be entitled to recall all products it has delivered from that batch from the buyer.
- 8.2. UnieKaas is obliged to notify the buyer of a recall in writing and stating reasons. The buyer is obliged to offer UnieKaas all the cooperation that can reasonably be expected in recalling the products from the batch concerned.
- 8.3. If UnieKaas recalls products brought onto the market pursuant to article 8.1 the only obligation on UnieKaas shall be to supply the buyer with replacement products, or to refund the purchase price paid by the buyer. UnieKaas is explicitly not liable to compensate the buyer for damage or costs in such cases.

#### **Article 9 Payment conditions**

- 9.1. Payment of the purchase price must have been received from the buyer before delivery by UnieKaas or no later than the time of delivery by means of an irrevocable and confirmed Letter of Credit from an internationally recognised and reputable banking institution, which also has offices on Dutch territory, subject to the Uniform Customs and Practice for Documentary Credits, unless payment by the buyer for the goods supplied by UnieKaas is satisfactorily guaranteed by the Nederlandse Credietverzekerings Maatschappij N.V. or the buyer has provided a bank guarantee payable immediately on demand from an internationally recognised and reputable bank, which also has offices on Dutch territory, subject to the Uniform Rules for Demand Guarantees, so long as the law of the

Netherlands is declared applicable to it, in which case the payment term in article 9.4 applies.

- 9.2. UnieKaas is entitled to invoice the purchase price through any of the companies specified in article 1.1.
- 9.3. If the purchased goods are to be delivered in instalments UnieKaas is entitled to invoice the buyer for each partial delivery.
- 9.4. Unless otherwise expressly agreed in writing, invoices sent by UnieKaas must be paid in full within 14 days of invoice date. The buyer never has the right to suspend or set off payment of invoices sent by UnieKaas.
- 9.5. If the buyer fails to pay in accordance with article 9.1 or within the period referred to in article 9.4., he shall immediately be in default. Without prejudice to all other rights that UnieKaas may have on the grounds of the law or of these conditions, the buyer shall be charged interest of 1.5% per month over the amount outstanding on the invoice.
- 9.6. In that case the buyer shall also be obliged to pay the extra-judicial costs incurred by UnieKaas to secure collection of all or part of the amount outstanding on the invoice. These extra-judicial costs shall be calculated as follows:
- |                            |           |                                    |
|----------------------------|-----------|------------------------------------|
| - over the first           | € 3,000:  | 15%, but with a minimum of € 200.= |
| - over the remainder up to | € 6,000:  | 10%                                |
| - over the remainder up to | € 15,000: | 8%                                 |
| - over the remainder up to | € 60,000: | 5%                                 |
| - over the remainder over  | € 60,000: | 3%                                 |
- 9.7. In the case described in article 9.5 above UnieKaas will not be obliged to make any further deliveries and UnieKaas may dissolve the contract concluded with the buyer without recourse to the courts, without prejudice to the buyer's obligation to indemnify UnieKaas.
- 9.8. Before making delivery or resuming delivery, UnieKaas shall have the right to require the buyer to furnish full security for compliance with his payment obligations if there is any reasonable doubt in that respect. Refusal by the buyer to furnish the requested security entitles UnieKaas to dissolve the contract without recourse to the courts and claim compensation for any costs incurred and loss suffered by UnieKaas.

#### **Article 10 Reservation of title**

- 10.1. So long as any invoice relating to a contract for the delivery of products has not been paid all products delivered under that contract remain the property of UnieKaas. This reservation of title also applies to claims UnieKaas has to payment of damages, interest and costs by reason of non-performance of such a contract.
- 10.2. The buyer is nevertheless entitled to process or sell on to third parties the products delivered by UnieKaas, so long as this is done as part of his normal business and the buyer also observes the provisions of article 11.
- 10.3. The buyer will be obliged at all times to cooperate fully to enable UnieKaas to exercise its title.

#### **Article 11 Onward sale**

- 11.1 The buyer is entitled to sell and deliver the products supplied by UnieKaas to third parties, so long as:
- a. the products are delivered in the original, unaltered packaging intended for the consumer;
  - b. the sell-by date of the products is not exceeded;
  - c. the buyer agrees with the third parties, if they are acting in the course of business, by way of a perpetuity clause that the obligations under a and b shall also be complied with in the event of further sale and delivery.

#### **Article 12 Bonuses**

- 12.1 The buyer is only entitled to bonuses, discounts, etc. if they are expressly agreed in writing.
- 12.2 UnieKaas shall only owe bonuses, discounts, etc. if the buyer is not and has not been in default of full compliance with any of his obligations under the terms of the bonus and/or discount.
- 12.3 UnieKaas is entitled to set off the bonus and/or discounts etc. referred to in article 12.1 against any invoice that has not been paid and whose due date has elapsed.

#### **Article 13 Buyer's obligation to take delivery**

- 13.1 The buyer is obliged to take delivery of the goods at the agreed time or within the agreed period. Where the buyer does not take delivery of the goods promptly, UnieKaas has the right to set the new date for taking delivery.
- 13.2 Where no date has been expressly agreed in writing, the buyer undertakes to take delivery of the goods no later than 30 days after UnieKaas's confirmation of the order.
- 13.3 If the buyer has not accepted delivery of the goods even on the later date set by UnieKaas, UnieKaas shall be entitled to sell the goods in question and/or to retain them for the buyer's account and risk at UnieKaas's discretion and depending on the nature and shelf-life of the goods. Where UnieKaas retains the goods for the buyer's account and risk, UnieKaas may nevertheless invoice the buyer for the purchase price of the goods. UnieKaas also has the right to dissolve the contract without recourse to the courts and claim reimbursement of any costs and losses incurred by it.
- 13.4 UnieKaas is not obliged to transfer the proceeds from the sale of the goods minus the expenses incurred to the buyer until the buyer has paid the purchase price in full, all without prejudice to UnieKaas's right to set off the proceeds against the purchase price.

#### **Article 14 Industrial property rights and confidentiality**

- 14.1 UnieKaas expressly reserves all its rights in the area of industrial and intellectual property in respect of the goods supplied by it.
- 14.2 The buyer may not use information obtained under the contract between the buyer and UnieKaas on his own behalf or on behalf of third parties except in connection with the sale or resale of the goods as agreed.
- 14.3 Except with prior written permission from UnieKaas, the buyer may not change the supplied products in whole or in part or provide them with a different brand name or different packaging.

#### **Article 15 Force majeure**

- 15 In the event that UnieKaas is prevented from performing the contract due to force majeure, UnieKaas is entitled either to suspend performance of the contract, or to dissolve the contract in whole or in part, without recourse to the courts and without any obligation for UnieKaas to pay compensation in that respect.

**Article 16 Packaging for carriage**

- 16.1 Where the goods are delivered on pallets the pallets remain the property of UnieKaas unless stipulated otherwise. The buyer must return the pallets within the usual period at the buyer's expense unless agreed otherwise in writing. Where the pallets are not returned, or where they prove to have been damaged or rendered unusable through the buyer's agency, the relevant costs will be charged to the buyer.

**Article 17 Applicable law; court with jurisdiction**

- 17.1 All contracts concluded with UnieKaas are governed exclusively by the law of the Netherlands. The United Nations Convention on the International Sale of Goods (Vienna, 11 April 1980) is not applicable.
- 17.2. All disputes that may arise from the contracts governed by these conditions shall be submitted for a decision by the competent Dutch court in the District of Utrecht in the Netherlands.

**Article 18 Citation**

- 18.1 These conditions can be cited by UnieKaas as "general export conditions", or "export conditions" for short.
- 18.2. This is an English translation of the Dutch version of these "export conditions". The Dutch version is decisive for the content, tenor and scope of these conditions.
- 18.3. These conditions in both Dutch and English versions were filed with the registry of the District Court in Utrecht in 2004 and are also given in full under the heading "Conditions" on the website [www.uniekaas.com](http://www.uniekaas.com).