

General terms and conditions of sale GVFI Europe BV

As at 17.05.2019

1. Definitions

GVFI: GVFI Europe BV established at Rotterdam

The CUSTOMER: the counterpart or potential counterpart to GVFI

Food law all legislation applying to the Articles in respect of food safety, including (but not limited to) EC regulation no. 178/2002 of the European Parliament and Council (as amended from time to time or the Regulation or regulations taking its place) and the associated regulations and laws and legislation

Agreement: the agreement made between GVFI and the CUSTOMER

Conditions of sale: these general terms and conditions of sale of GVFI

Articles: the articles supplied or to be supplied by GVFI including (but not limited) meat, game, poultry and related goods.

2. General

2.1 The Conditions of Sale apply to all legal relations between GVFI and its CUSTOMERS under which GVFI acts as vendor or potential vendor of goods and complimentary services of GVFI unless otherwise agreed in writing.

2.2 These Conditions of Sale apply exclusively. The applicability of any general terms and conditions or stipulations of the CUSTOMER is specifically excluded by GVFI unless GVFI accepts them or part of them in individual cases expressly and in writing.

3. Offers / orders and the creation of the Agreement

3.1 The presentation of the range of products of GVFI by means of price lists, catalogues does not represent a binding offer on conclusion of a contract.

3.2 The CUSTOMER'S order by post, fax, email, or through other means of communication represents a binding offer of the CUSTOMER to conclude a purchase contract with GVFI. A possible confirmation of receipt of the order does not constitute acceptance of the offer.

3.3 An Agreement is created only after GVFI has confirmed it in writing. If GVFI does not confirm an orally concluded contract in writing, the invoice issued or delivery note is regarded as confirmation.

3.4 All information about our goods only serve the description. They do not guarantee any condition, unless the guarantee is explicit and in writing.

3.5 Notwithstanding the provisions of Article 6:225 (2) of the Civil Code, GVFI is not bound by departures from GVFI's offer, however slight such departures may be, appearing in the CUSTOMER's acceptance. In such a case, the Agreement will be deemed to have been concluded on the conditions as stated in the offer, except that GVFI will be entitled at all times to honour one or more (or all) departures.

3.6 GVFI is entitled at all times to break off negotiations with the CUSTOMER without stating reasons. GVFI will on no account be liable in damages for breaking off negotiations.

3.7 Insofar as he acts in the conduct of a trade or profession, the CUSTOMER waives his right to dissolution or rejection under Article 6:227c (2), Civil Code.

3.8 GVFI is not obliged to enquire of the CUSTOMER or third parties regarding the intended use of the Articles or the circumstances under which the Articles will be used.

4. Prices / Weights

4.1 Unless expressly stated otherwise in writing, all prices are expressed in Euros and these prices are based on delivery carriage paid to destination if the place of delivery is situated in the Netherlands or on DAP place of destination (INCOTERMS 2010) if the place of delivery is situated outside the Netherlands.

4.2 Unless expressly indicated otherwise in writing, all prices exclude VAT, import and export duties and any other government levies and taxes.

4.3 GVFI is entitled to charge increases in import prices, auxiliaries, labour, insurance, currency rates and other cost factors relevant to the Agreement that occur after an offer has been made and/or an Agreement has been concluded wholly or partly through to the CUSTOMER. The CUSTOMER is on no account entitled to a reduction in amounts to be paid by the CUSTOMER in the event of a reduction in import prices, auxiliaries, labour, insurance, currency rates and other cost price factors relevant to the Agreement that arise after an offer has been made and/or an Agreement concluded.

4.4 Any additional charges resulting from changes to the Agreement (including a change in the Articles to be supplied and the delivery dates) will in all cases be borne by the CUSTOMER irrespective of whether such additional expenses were known when the change was made and/or were notified to the CUSTOMER.

4.5 On a further order for Articles that are similar to the Articles supplied (or to be supplied) under an earlier Agreement, the CUSTOMER will not be entitled to delivery of such Articles at the prices stated in the earlier Agreement unless expressly agreed otherwise in writing.

4.6 Decisive for the purchase price calculation is the weight determined at the time of loading. The usual weight loss during transport does not change the basis of calculation.

4.7 The purchase price does not include the cost of disposal and recycling of transport and product packaging.

5. Volume

GVFI is entitled to reduce the delivery quantity should there be no availability of goods without prior information and / or make partial deliveries. The CUSTOMER gets informed promptly about shortages and pending deliveries.

6. Quality

6.1 The quality of goods is determined according to commercial usage, unless expressly agreed and stated otherwise in writing.

6.2 Unless agreed otherwise GVFI cannot guarantee for each delivery that the goods have been produced exclusively in IFS certified plants.

6.3 The standard of certification of the production plant shall be communicated via the delivery documents (delivery note and invoice). The acceptance of the goods is considered as confirmation by the CUSTOMER that he has taken note of the certification status and accepts the delivered goods.

7. Delivery

7.1 Unless expressly agreed otherwise in writing, all deliveries in the Netherlands will be made carriage paid to destination and all supplies outside the Netherlands 'Delivered At Place' ("DAP") place of destination (INCOTERMS 2010). If delivery is agreed on another basis, the CUSTOMER must effect an adequate transit insurance prior to transportation. Notwithstanding the provisions of the previous sentence, the CUSTOMER is obliged in any event to effect the transit insurance within 24 hours after the Agreement has been concluded, unless expressly agreed otherwise in writing.

7.2 The CUSTOMER undertakes to accept delivery of the Articles at the point when they are offered to him for delivery. The risk of all Articles passes to the CUSTOMER at the point when they are offered to him for delivery.

7.3 Should the CUSTOMER refuse Articles offered to him for delivery, GVFI will be entitled but on no account obliged to store or procure the storage of such Articles or part thereof at the CUSTOMER's risk and expense. The CUSTOMER undertakes to pay all expenses to GVFI immediately on request if connected with such storage and associated transportation. GVFI is entitled but on no account obliged to destroy Articles stored for a CUSTOMER under this article at the CUSTOMER's risk and expenses after GVFI has held or arranged for the holding of the Articles for two weeks and the CUSTOMER has not yet accepted delivery of such Articles. The above does not affect the CUSTOMER's obligation to pay for the Articles in accordance with the Agreement concluded with the CUSTOMER.

7.4 Should an Agreement include a composite statement or quotation, GVFI will on no account be obliged to deliver part of the Articles included in the Agreement for the corresponding proportion of the price.

7.5 GVFI is entitled at all times to execute deliveries to be undertaken by GVFI in parts and to invoice such partial deliveries individually.

7.6 GVFI is entitled at all times to have delivery undertaken by third parties.

8. Delivery periods

The delivery periods indicated by GVFI are purely an indication and on no account strict deadlines. GVFI will be in default only after GVFI has been put on notice in writing and GVFI has in doing so been allowed a reasonable time limit for discharge and this time limit has lapsed without action.

In principle, the discharge must be enabled immediately on delivery. Any waiting period exceeding 60 minutes will be charged to CUSTOMER.

9. Packaging

The CUSTOMER is obliged to return loan packaging within 14 days following delivery empty and in undamaged state to GVFI at an address to be indicated by it. The CUSTOMER will bear all costs connected with this obligation (including failure to observe it).

10. Inspection and complaints

10.1 The CUSTOMER undertakes to check or procure the checking of the Articles supplied and packaging or the Articles that GVFI has offered for delivery and notifies GVFI in writing for any shortages (number of pieces and kg) and visible damage of pallets and cartons, open cartons and for temperature deviation within 24 hours following delivery or an announcement that GVFI has offered the Articles for delivery (entrance control).

In the event of deviations of specification (e.g. cut), quality, leakers/air bubbles, weight differences, declaration/labelling, exceedance of pH value of 6.2 the CUSTOMER will within 48 hours following delivery of the Articles or notification by GVFI as indicated above submit a complaint in writing, losing all his rights in connection with such shortages and defects on his failure to do so. Notwithstanding the above, complaints regarding the quality of delivered Articles or Articles offered for delivery must have reached GVFI in writing within 48 hours following delivery or offer for delivery, failing which the CUSTOMER can no longer submit any claim regarding the quality of the Articles concerned.

In the event of deviations of microbiological values and spoiled foodstuffs the notification must be made to GVFI within 10 days following delivery.

If defects are not immediately observable, the CUSTOMER will immediately after such defects are discovered so advise GVFI in writing. Without prejudice to the provisions of the previous sentence, the CUSTOMER will in any event lose all his rights unless he has complained in writing within 48 hours following discovery of the defects or the point when he could reasonably have discovered them.

On the CUSTOMER's failure to lodge a complaint within the time limits mentioned in this Article 10.1, the Articles shall be considered fully in conformity and accepted by the CUSTOMER. Articles regarding which complaints are lodged must be returned to GVFI at the CUSTOMER's expense unless indicated otherwise by GVFI.

10.2 Without prejudice to the provisions of Article 10.1, the CUSTOMER may in any event make no further claim after he has started wholly or partly to use Articles supplied, has worked on or worked up such Articles, has supplied them to third parties or permitted third parties to use them or has implicitly or explicitly accepted the Articles.

10.3 Even in the event of the CUSTOMER having complained in good time, he remains obliged to pay any invoice(s) relating to the Articles and for acceptance and payment of any other Articles ordered (even of the same kind).

10.4	Minor discrepancies in weight, measurements, quantity, colour and/or composition of Articles supplied can in no event result in a complaint nor be a reason for compensation and/or price adjustments. In order to determine the weight, dimensions, quantity, colour and/or composition of Articles supplied, the counts, measurements and opinions of GVFI will prevail.	14.3	Without prejudice to the provisions of Article 14.1, the CUSTOMER warrants that the Articles, after being supplied to the CUSTOMER or after they have been offered to the CUSTOMER for delivery, are stored in accordance with the applicable provisions and regulations of Food law, including (but not limited to) the provisions concerning the keeping temperature and maximum keeping period. The CUSTOMER will ensure that the keeping and temperature data are recorded uninterruptedly at all times by apparatus intended and calibrated for this purpose and are laid down in writing and will submit these data to GVFI immediately on request.
10.5	If a complaint in terms of this Article 10 is found to be established, GVFI is at its discretion required only to supply the missing part, replace or obtain replacement of Articles to which the complaints refer, or issue the CUSTOMER with a credit note for the Articles, if desired by GVFI against delivery by the CUSTOMER to GVFI of the Articles in respect of which the complaint was held established. The CUSTOMER is required to follow GVFI instructions in connection with storage or return of Articles.	14.4	Without prejudice to the provisions of Article 14.1, the CUSTOMER will ensure that the Articles, after being delivered to the CUSTOMER or after they have been offered to the CUSTOMER for delivery, can be traced at all times and the SUPPLIER will provide GVFI with the data concerning their traceability immediately on request.
10.6	Without prejudice to the provisions elsewhere in the Agreement or Conditions of Sale, claims based on the assertion that Articles supplied by GVFI do not comply with the Agreement are statute barred on expiry of 1 year following the date of delivery to the CUSTOMER.	14.5	Should the CUSTOMER fall short of the obligations imposed on the CUSTOMER under the present Article 14 or be unable to demonstrate by means of written evidence that he has complied with the obligations under the present Article 14, it will be assumed that all damage, costs and losses claimed or sustained in respect of the Articles are the result of the CUSTOMER's failing to discharge the above obligations and the CUSTOMER will hold GVFI harmless in respect of all damage (expressly including consequential loss).
11. Payment		15. Licenses	
11.1	The purchase price and any applicable shipping costs are due upon conclusion of the contract. The figures given are to be paid within 30 days from receipt of invoice to the account number(s) indicated in the invoice, or one of them. If the payment period expires unused, debts occur automatically and without reminder. The CUSTOMER owes in this case an interest of 5 % p.a. The assertion of additional claims for indemnities, particularly as regards enforcement of the claim is reserved. Payment by the CUSTOMER will be made exclusively in the currency in which the agreed prices are expressed.	The CUSTOMER will ensure that the CUSTOMER has all licences required in connection with the Articles or the supply of the Articles to the CUSTOMER. If and insofar as the authorities must give their consent in connection with the supply of the Articles to the CUSTOMER, the CUSTOMER guarantees to GVFI that the authorities have given or will give such consent. The CUSTOMER will hold GVFI harmless in respect of damage that GVFI sustains in connection with not holding or obtaining the licences and consents concerned.	
11.2	GVFI accepts only the forms of payment shown to the CUSTOMER during the ordering process. After the result of a credit check GVFI reserves the right to exclude certain payment methods. The CUSTOMER will bear all expenses connected with payment (the putting up of security included).	16. Liability	
11.3	In principle, payment will be made without offset, discount or suspension. The customer is only entitled to offset possible warranty claims, withhold or reduce the purchase price claim when his counterclaims are either uncontested or have been expressly recognized in writing by GVFI.	16.1	If and to the extent that the CUSTOMER rightfully complains in time in accordance with article 10 above, GVFI's liability in respect of any and all claims for damages arising out of or in connection with the Articles and the use thereof shall not exceed the sum of the CUSTOMER's payments for the Articles (maximum sum of invoice by GVFI) that are the subject of the claim.
11.4	All GVFI's receivables become immediately payable on the bankruptcy, suspension of payments or winding up of the CUSTOMER or the CUSTOMER's exceeding the payment term for any of GVFI's invoices.	16.2	Notwithstanding article 16.1 above, GVFI shall in no event be liable for any material or immaterial damage (including, but not limited to: indirect or consequential damages, loss of profit(s), loss incurred, costs made, missed orders, missed savings and the inability to undertake marketing and other promotional activities (including the inability to perform those activities at the desired time), except in the case of wilful misconduct or gross negligence by GVFI itself (i.e. its company management). GVFI is not liable for damage caused through wilful misconduct or gross negligence of its employees, subordinates and/or non-subordinate contractors or agents for whom GVFI is or may be liable under law. Upon first request the CUSTOMER shall indemnify and hold GVFI harmless from and against any and all third-party claims in respect of damage and/or loss set out in this article.
11.5	All extra-legal expenses, expressly including the costs incurred for the preparation, procurement and despatch of reminders, the conducting or procuring of composition and other negotiations and negotiations in preparation for possible legal proceedings, and all legal expenses that GVFI incurs as a result of failure by the CUSTOMER to discharge the obligations imposed on the CUSTOMER or to do so in time will be borne by the latter. The CUSTOMER will make good such expenses to GVFI immediately on request.	16.3	GVFI stipulates all statutory and contractual rights that GVFI may invoke in defence of its liability also in respect of all those concerned with implementation of the Agreement.
11.6	Should the CUSTOMER fail to discharge any payment obligation or do so in time, GVFI will be entitled to suspend all or part of its further obligations towards the CUSTOMER, both obligations concerning the same agreement and those concerning other agreements, and/or no longer finally to discharge them. GVFI will on no account be liable in respect of such suspension or failure of discharge towards the CUSTOMER and the CUSTOMER will make good to GVFI all loss that GVFI sustains or will sustain in connection with such suspension and/or failure of discharge.	17. Force majeure	
12. Security		17.1	Should proper discharge by GVFI be wholly or partly permanently impossible due to force majeure, both GVFI and the CUSTOMER will be entitled to dissolve all or part of the Agreement. The CUSTOMER is not entitled to payment of damages in such a case.
If in GVFI's opinion there is good reason to fear that the CUSTOMER may not discharge any obligation towards GVFI (wholly or partly) or not do so in time, the CUSTOMER is obliged immediately on request by GVFI to put up adequate security for the full and timely discharge of all his obligations towards GVFI to GVFI's satisfaction or replace or top up security already lodged. If the said security or additional security is not put up within 7 days after being so requested by GVFI, all consequences of failure to discharge will take effect immediately and without a reminder being required for this.		17.2	Should due discharge by GVFI be only temporarily frustrated (wholly or partly), the CUSTOMER may dissolve the Agreement only if discharge during a consecutive period of six months is impossible. The last sentence of Article 17.1 will apply.
13. Reservation of title		17.3	Force majeure also covers: shortage of supplies and raw materials for the production of Articles, strikes, shortage of labour, failure to observe obligations by GVFI's suppliers (both direct and indirect), all circumstances that obstruct the normal business of GVFI and/or its suppliers, transportation problems, import, export and transit bans and everything covered by force majeure under Dutch law, even if one of the circumstances mentioned above may perhaps have been foreseeable at the time the Agreement was concluded.
13.1	All Articles supplied and to be supplied by GVFI remain GVFI's property until the CUSTOMER has fully discharged all his obligations in respect of all Articles supplied or to be supplied under the Agreement, these expressly including the CUSTOMER's obligations on account of failure to discharge any such obligations. The consequences in law of property of the said reservation of title for Articles intended for export are governed by the law of the country of destination unless GVFI indicates otherwise.	17.4	If on the occurrence of the force majeure GVFI has already partly discharged its obligations or can partly discharge its obligations GVFI will be entitled at any time to payment of the obligations that it has discharged and GVFI is entitled to separate discharge of the obligations that it is able to discharge and to payment for such obligations, in each case as if a separate agreement had been made.
13.2	The CUSTOMER is not entitled to pledge Articles covered by reservation of title or to encumber them in any other way. These Articles may be disposed of only under normal conduct of a business. The CUSTOMER will immediately advise GVFI in writing should third parties enforce or establish (or procure) rights to Articles covered by reservation of title (including in this connection also: attachment) or if the CUSTOMER learns or suspects that third parties may enforce or establish such rights.	18. Final clauses, applicable law and competent court	
13.3	The CUSTOMER undertakes to insure Articles supplied under reservation of title adequately and keep them insured against all possible risks and to permit GVFI to inspect the policy concerning this insurance immediately on request.	18.1	GVFI Europe BV reserves the right to modify the present terms at any time. The respective binding version is available at www.gvfi.eu .
13.4	On failure by the CUSTOMER to perform, GVFI will be entitled to recover or obtain recovery of the Articles supplied that belong to GVFI. The CUSTOMER as from now gives his irrevocable and unconditional consent to GVFI and/or third parties retained by GVFI to enter all those places where entry is necessary or desirable in connection with the exercise by GVFI of its rights of title and other rights. All expenses connected with this exercise will be borne by the CUSTOMER.	18.2	Amendments and supplements of written agreements, outside the terms and conditions are only valid if made in writing with the consent of both parties. This also applies to any waiver of the written form requirement.
14. Food law		18.3	If a provision of an agreement is or becomes invalid or unenforceable, the validity of the remaining provisions will remain unaffected. Instead of the invalid or unenforceable provision a valid and enforceable provision shall be deemed agreed that comes closest to the economic purpose pursued by the invalid or unenforceable provision. The same applies if a loophole in an agreement is revealed.
14.1	The CUSTOMER guarantees to GVFI that the CUSTOMER will at all times observe all the provisions and regulations of Food law relating to the Articles.	18.4	All legal relations between GVFI and the CUSTOMER shall be exclusively governed by Dutch law, applicability of the provisions of the Vienna Sales Convention being excluded.
14.2	Without prejudice to the provisions of Article 14.1, the CUSTOMER warrants and will ensure that the Articles are labelled in accordance with the provisions and regulations of the Food law relating to the Articles concerned, including but not limited to the provision that labels may not be misleading, before they are supplied, passed on, distributed, sold, made available to third parties or otherwise leave the custody of the CUSTOMER, unless expressly agreed otherwise in writing.	18.5	The competent court at The Hague shall have exclusive jurisdiction in disputes between GVFI and the CUSTOMER and to decide thereon, always subject to GVFI's right to submit a dispute to the court with competence at the CUSTOMER's place of residence or establishment.