

## I GENERAL

### *Article 1*

1.1 An agreement is not regarded by us as having been made until our written confirmation by letter, e-mail or fax or by the Buyer's or Seller's signature of our contract.

1.2 Our agents are not authorised to bind us unconditionally. They may only buy and sell subject to our approval.

1.3 All our offers are entirely free of obligation unless otherwise stated in the offer.

### *Article 2*

2.1 In the event of *force majeure*, we are entitled to curtail the fulfilment of our contracts for the duration of the *force majeure*. If the duration or severity of the *force majeure* necessitates—and this is solely at our discretion—we are entitled to regard the contract, insofar as it has not been fulfilled, as dissolved, without legal intervention and without obligation to payment of loss compensation. In any case we may dissolve the agreement without a right to loss compensation for the other party if the *force majeure* situation lasts longer than one month or if it is certain that the *force majeure* situation will last longer than one month.

2.2 Unless otherwise determined hereafter, *force majeure* is defined as any extraordinary circumstance that would make the fulfilment of our obligation(s) impossible or so burdensome that it could not reasonably be expected of us, such as war, mobilisation, strike, labour unrest, revolution, riot, public disturbances, storm, floating ice, flooding, stagnation of electricity or water supply, company fire, business stagnation due to machinery breakdown or difficulty in energy supply, traffic hindrances, etc.

2.3 Government measures that hinder or render financially disadvantageous the importation, transportation and exportation of goods bought and sold give us the right to dissolve the agreement insofar as it has not been fulfilled, without any obligation on our part to payment of loss compensation or any right on our part to demand compensation from the buyer or seller for the disadvantages imposed by these measures before we proceed to delivery or receipt.

2.4 *Force majeure* of our customers or suppliers qualifies as *force majeure* for us.

### *Article 3*

3.1 In case of any deviations or discrepancies between these terms and conditions and those of our other parties, our terms and conditions shall prevail.

3.2 In case of a dispute over the meaning of these terms and conditions or the conditions stipulated in Article 5, the Dutch text shall prevail.

3.3 With regard to the periods of time stipulated in these conditions, hours shall be understood as hours in 24-hour days (not just working hours) and days are calendar days of the year (not just working days).

## ***Article 4***

4.1 All our agreements are governed by the laws of the Netherlands. Our agreements are entirely implemented in the Netherlands, as delivery and payment for goods takes place in Dronten.

4.2 The stipulations of the Vienna Sales Convention (CISG), insofar as applicable, are excluded.

4.3 All disputes arising from our offers and agreements or derivations thereof shall be adjudicated by the Court of Lelystad. We nevertheless reserve the right to depart from the above and have the matter adjudicated in the court local to the other party.

## ***Article 5***

5.1 Should one or more sections of an article of our Terms and Conditions become null and void, the other stipulations shall remain unaffected.

5.2 Our liability for loss, regardless of how it occurred, is expressly excluded, except and insofar as this loss is due to our gross negligence. In that case our liability is limited to the invoice amount.

# **II PURCHASE**

## ***Article 6***

6.1 Articles 6 to 9 of these conditions are exclusively applicable to offers and agreement in which we are the purchasing party. Articles 10 and further are not applicable to such offers and agreements.

6.2 The Seller is obliged to send us clear and correct invoices. Unless otherwise expressly agreed upon in writing, the payment period shall be 6 weeks after we have received the invoice. This period is not a final deadline but a guideline only.

6.3 We are entitled to make all our payments by bank transfer (giro payment).

6.4 Our payments shall be applied—to the exclusion of Article 6:44 of the Netherlands Civil Code—in the first instance to reducing the principal and interest, and then to the past interest and finally to costs owed.

6.5 If we are declared in breach and in default—to the exclusion of Article 6:119 of the Civil Code—we will owe default interest in the amount of the discount rate of the Dutch bank to a maximum of 4.5% interest per annum, until we have satisfied our payment obligations. We are never obligated to payment of the extrajudicial costs.

6.6 All demands from the Seller on us shall expire after a period of 1 year following the date of delivery.

## **Article 7**

7.1 We reserve the right to offset all our demands on any party that has an agreement with us, against our payment obligations.

## **Article 8**

8.1 If the Seller is the grower of the produce sold, the Seller should take out insurance against hail damage. In case of storage, the Seller must insure the sold produce for fire and water damage at the expense of the Buyer. This obligation does not affect the fact that in case of partial or total crop failure or of fire and/or water damage, the Seller is obligated to deliver the contracted quantity of produce to us and is obligated to remedy the shortage by purchasing from another source. In case of hail, fire or insurable water damage, the Seller may not appeal to *force majeure*.

8.2 The goods to be delivered must, upon arrival at our location or the receiving location, meet the agreed quality requirements. They must be of good quality, free of disease, damage, soil (including soil clods), and interior and exterior defects. They may not contain any residues of crop protection products that exceed relevant legal standards.

8.3 At shipping, the Seller is obligated to use a soil separator appropriate to the produce. Unless expressly agreed otherwise, the Seller must deliver unwashed produce. The produce must be entirely free of soil. The Seller is obligated to pay us a soil fee of at least 50 euros per tonne of soil delivered. This amount may be adjusted on the purchase confirmation.

8.4 The Seller is obligated to ensure that the internal temperature of the onions at shipping and delivery is at least 7°C and no more than 20°C from the field, or from storage at least 7°C and no more than 15°C. For potatoes for human consumption, the temperature must be at least 14°C and no more than 16°C. Temperature measurements will be taken on at least 5 units per shipment. If the Seller is in contravention of this obligation, we have the right to reject the goods and/or demand loss compensation.

8.5 The delivery time stipulated in the agreement is not a strict deadline, but a guideline only. The purchased goods shall be delivered on a call-off basis to us and our company or to a receiving company to be designated by us, where inspection and taring shall take place. Until delivery, the Seller is obligated to properly store the produce at the Seller's own expense and risk. Unless expressly

agreed upon otherwise in writing, the Seller is obligated to deliver the produce carriage paid to the address indicated by us. A separate sample will be taken from each vehicle. The loading costs are always the responsibility of the Seller. On the first request, the Seller must also deliver on Sundays, holidays and overnight. If the sales agreement or confirmation states that delivery shall take place in the buyer's lorry, this only means that we will pay transport costs. The legal and actual delivery takes place at our location or at the location of the receiving company designated by us.

8.6 In case of late delivery, non-delivery or unsatisfactory delivery by the Seller, we have the right to demand fulfilment and full loss compensation or, at our discretion, we may dissolve the agreement and demand full loss compensation. The Seller's obligation to loss compensation is not limited. The Seller must compensate full material and immaterial loss as well as the full direct and indirect loss. This also includes extrajudicial costs and past or future actual costs to be incurred.

8.7 The weighing costs are the responsibility of the Seller.

8.8 If the Seller is given a grower's questionnaire, the Seller is obliged to fully complete this form and return it to us. We will pay the Seller the purchase sum less any discounts, fees, loss and other offset amounts, within three weeks after delivery and taring and receipt of the grower's questionnaire, unless we suspend our payment obligations in connection with a shortcoming on the part of the Seller.

8.9 If the tare percentage is higher than 15%, we are entitled to refuse purchase, but we also have the right to purchase the goods at the contract price or the current market value (our choice), in either case with a discount to be determined by us in connection with the extra costs for preparing the goods.

8.10 The goods to be delivered to us must meet the agreed quality standards for a reasonable period after delivery to and receipt by the end processor and consumer. During that period we have the right to lodge a complaint about the quality of the delivered goods with regard to external visible defects. We have the right to complain about hidden defects, internal defects, and those not visible to the naked eye within a reasonable time after such defects are discovered. If we, our customers or their customers export the goods, we may also lodge a complaint within a reasonable time after the goods are received by the end recipient abroad.

8.11 In case of rejection and/or refusal of the goods presented for delivery, we have the right, at our discretion, to demand a replacement delivery or to debit the refused quantity from the remaining portion of the contract.

## Article 9

9.1 If, after the agreement is made, the information about the financial position of the Seller is such that the fulfilment of delivery obligations must be regarded as uncertain, we have the right to require

security to be given in the form specified by us. If the Seller does not provide that security in a timely fashion, we have the right to dissolve the agreement and/or demand loss compensation.

9.2 If the Seller is delinquent in delivering the goods and the purchase sum for goods already delivered by the Seller becomes due, we have the right to suspend payment for the previously delivered goods until the late deliveries have been made by the Seller.

## III SALE

### *Article 10*

10.1 Articles 10 and following of these terms and conditions apply to offers, agreements and deliveries in which we are the Seller. Articles 6 to 9 are not applicable in these circumstances.

10.2. All our sales agreements are deemed to have been established in Dronten, the Netherlands.

10.3 Our products are deemed as sold and delivered at the location where the goods are loaded onto the first transport vehicle. After delivery, the goods are transported at the expense and risk of the Buyer. Legal delivery occurs, in any case, at the moment the produce is loaded on or in the first transport vehicle.

10.4 Payment of the purchase sum takes place in Dronten. The purchase sum is stated in Euros excluding VAT.

### *Article 11*

11.1 The Buyer is obligated to receive (or, if necessary, place call-off orders for) the goods purchased at the agreed place and time.

11.2 If it is agreed that the purchased quantity should be delivered for a certain period, the Buyer must, as far as possible, order and accept regular and equal or nearly equal quantities. For every delivery, the Buyer must allow for a delivery time of at least three days.

11.3 If the buyer does not strictly and fully meet these obligations for timely ordering and/or receipt, we are entitled, without notice of default, to full loss compensation and/or to regard the agreement as dissolved insofar as it has not yet been fulfilled, and to demand loss compensation for the portion of the agreement that has not been fulfilled. We are then also entitled—even if we do not dissolve the purchase agreement—to sell the goods at the expense and risk of the Buyer and offset our loss and/or the purchase sum against the yield from that sale.

11.4 The agreed time of delivery is a target date, not a strict deadline.

## **Article 12**

12.1 All our sales agreements for agricultural produce, regardless of whether we or a third party have grown the produce, shall take place on condition of harvest. If less produce is available as a result of a bad harvest with regard to the quantity and/or quality of agricultural produce (which may also be understood to mean rejection by inspection authorities) than would reasonably have been expected when the agreement was made, we have the right to reduce the quantities sold accordingly. This is also the case if the produce purchased by us under cultivation contracts is insufficient for all our customers. In delivering this reduced quantity, we shall be deemed to have fulfilled our delivery obligations in full. We are therefore not bound to deliver replacement agricultural produce, nor are we liable for any loss whatsoever.

## **Article 13**

13.1 The agricultural produce to be delivered by us is subject to spoilage; shelf life and quality after delivery is largely dependent on the method of transport and/or storage, over which we have no influence after delivery. Therefore, upon delivery the Buyer must take the responsibility of weighing and examining the produce, including taking random samples and cutting them open, measuring produce temperature and pesticide and other residues, to determine whether, in the Buyer's opinion, the produce meets the agreed requirements and quality. Moreover, the Buyer must take the responsibility to determine whether there are any foreign objects among the delivered produce and remove said objects.

13.2 Regarding the quality and quantity of delivered goods, the Buyer may only complain during the actual delivery of the goods, i.e. during the loading of the goods onto the Buyer's transport vehicle, or in all other cases, before the unloading of the goods.

13.3 The Buyer's right to complain or dissolve the agreement expires when the goods are actually received by the Buyer, i.e. when the goods are loaded onto the Buyer's transport vehicle(s), or are unloaded at the location designated by the Buyer.

13.4 If the Buyer refuses to receive our goods on grounds of alleged defectiveness, that Buyer is obligated—on penalty of forfeiture of rights—to notify us of the fact by fax or e-mail immediately, or in any case within 1 hour of refusal. If we reject the complaint or do not accept the complaint within 1 hour by fax or e-mail, the Buyer—on penalty of forfeiture of rights—must immediately, i.e. within 6 hours after lodging the complaint, must in our presence have an independent assessment made by a sworn assessor. We have the right to commission a counter-assessment.

13.5 We are entitled to replace justifiably refused goods with other goods, but we are not obligated to do so. In the latter case, we are entitled to deduct the refused quantity from the total sold quantity.

13.6 If the Buyer of the goods presented for delivery refuses to receive them, we are entitled, even in case of a partial delivery, to dissolve the entire contract insofar as it has not yet been fulfilled, and to demand loss compensation.

13.7 The past and future loss suffered by us due to the total or partial refusal to receive goods sold by us must be compensated to us in full. This loss compensation shall comprise at least the difference between the price agreed with the Buyer and the current market price at the time of non-performance, plus the loss of profit and other loss including consequential loss.

13.8 Should the Buyer fall short of his obligations, the Buyer is liable to compensate us merely due to the late receipt or non-receipt of the goods.

## ***Article 14***

14.1 Our invoices must be paid within 14 days after invoice date. The Buyer is not permitted to offset expenses or suspend payment. In case of failure to pay within this period, the Buyer shall owe us an interest payment in the amount of 1.5% per month whereby any part of a month shall be considered as a whole month, without notice of default being required.

14.2 Furthermore, after the payment period has expired, we are entitled to turn over the collection of our payment demand to our legal counsel. All costs associated with collection, both judicial and extrajudicial, will be for the Buyer's account. Judicial costs include the actual costs incurred for our lawyers, bailiffs and experts. Extrajudicial costs are calculated at 15% of the principal with a minimum of 500 euros.

14.3 If our invoices are not paid within the stated period, we have the right to suspend any further delivery or performance of the agreement until the outstanding invoices are paid, or a bank guarantee is given as security for the payment of past and future deliveries. We may also require this guarantee if, at the time of delivery, we have reasonable grounds to doubt the solvency of the Buyer, without any obligation on our part to provide justification for this doubt.

14.4 We are entitled to cancel the agreement, insofar as it is not yet fulfilled, if the Buyer remains in default of payment on the outstanding invoice within 2 x 24 hours after having received our written payment demand. In that case, we have the right to demand compensation for the entire loss resulting from the breach of contract.

14.5 If the invoice value of the produce delivered by us approaches or exceeds the credit limit set by our credit company, we have the right to suspend our further deliveries as long as the Buyer has not issued a bank guarantee from a Dutch bank for the payment of the invoice value of the deliveries above the credit limit. We have the right to dissolve the agreement if the Buyer does not issue such a bank guarantee within 2 days after we have asked for it. In that case, the Buyer is liable to compensate our loss in full.

14.6 We have the right at all times to offset our demands on any debtor against our payment obligations toward that debtor.

### ***Article 15***

15.1 All products delivered in fulfilment of this agreement remain our property until the purchase sum with all additional expenses is paid in full and we have no other claims of any kind upon the Buyer. If, after making the agreement, the information about the Buyer leads to uncertainty regarding payment of the purchase sum, we may ask the Buyer for payment security. The Buyer is then obligated, on demand and at the Buyer's expense, to provide us with a bank guarantee which we find acceptable within 24 hours. If the Buyer fails to do this, we are entitled to dissolve the purchase agreement and claim full loss compensation.

15.2 If the goods delivered by us are no longer in the original form and/or packaging, or if they have been processed into other products, an undisclosed pledge shall be established for us with regard to those goods which will remain in force until all claims of whatever nature we have on the Buyer are paid in full.

15.3 In case of late payment, suspension of payment or bankruptcy, we are entitled to take possession of our goods and to enter the premises and buildings of the Buyer for that purpose. The Buyer grants us this authority by virtue of entering into the purchase agreement.

Duly deposited at the Chamber of Commerce of Gooi-, Eem- and Flevoland, P.O. Box 10318, 1301 AH Almere.