

## **GENERAL TERMS AND CONDITIONS**

### **Holland Diervoeders B.V.**

#### 1. Definitions

- 1.1. In these General Terms and Conditions, the following terms are defined as indicated below, unless explicitly stated otherwise:

Holland Diervoeders B.V. as well as all affiliated companies and/or group companies, in other words any company with which Holland Diervoeders B.V. is associated in a group as referred to in article 2:24b of the Dutch Civil Code (BW) or in which Holland Diervoeders B.V. holds a stake as referred to in art. 2:24c BW, hereinafter specifically denoted by 'we', 'us' or 'our'.

Other party and/or client: any (legal) person or entity (under public or private law) that has concluded or wishes to conclude an agreement with us, as well as any representative, authorised agent, legal successor or heir that it may have.

Agreement: the agreement between us and the other party and/or client.

#### 2. General

- 2.1 All our offers, agreements – whatever their name – and the performance thereof are governed exclusively by the present terms and conditions. These terms and conditions also apply to supplementary orders, follow-up orders and other related orders placed with us and executed by us. Any deviations from these terms and conditions must be explicitly agreed upon with us in writing.
- 2.2 The present terms and conditions also apply to any agreements concluded with us that require the services of third parties for performance purposes.
- 2.3 Arrangements with our staff are not binding for us unless confirmed in writing on our behalf.
- 2.4 The applicability of general terms and conditions operated by the other party is explicitly rejected, unless otherwise agreed in writing.
- 2.5 If any provision of these General Terms and Conditions is invalid or must be annulled, the other provisions of these General Terms and Conditions will remain in full force.
- 2.6 'In writing' is also understood to include communication between the parties by e-mail.

#### 3. Offer

- 3.1 All offers made by us will be without obligation and will be supplied in writing, unless explicitly stated otherwise. We have the right to mention explicitly in an offer that it is a fixed offer that will only be valid if a response is received by a specified date and time.
- 3.2 We will assume, and the other party will guarantee, the accuracy and completeness of the designs, specifications, (electronic) files and other data given to us by the other party on its behalf on which we base our offer. We will perform the agreement on the basis of this information, unless otherwise agreed in writing with the client.
- 3.3 The current gross salaries and prices of materials and services at the time the offer is made will form the basis of the offer. If, after the period of validity for the offer has lapsed, any of the cost factors mentioned here changes, we will be entitled to adjust the price offered accordingly.
- 3.4 The sending of offers and/or (other) documents will not obligate us to accept an order. Deviations from offers made will only be binding for us if we have confirmed them in writing or we have declared in writing that we accept them.
- 3.5 We reserve all rights to change the details in our offers that are without obligation and to make minor adjustments to and/or slight deviations from any of the following that may accompany the offer: drawings, sketches, reports, contracts, instructions for use

and other documents, as well as scale-models, models, samples, packaging or other materials. We will not be liable in such cases.

- 3.6 The transport times, delivery times and other times for services to be provided by us as stated in our offers are global, indicative and merely informative. Any exceeding of these times will not immediately entitle the other party to compensation or dissolution. An agreed time for performance is therefore not a firm deadline, unless explicitly agreed otherwise. In the event of late delivery, the other party must send us a written notice of default.
- 3.7 If we have to incur costs in order to be able to make an offer to the other party, we will have the right to charge the other party for these costs provided that we have alerted the other party to that extent before making an offer.

#### 4. Agreement

- 4.1 An agreement will only be established once it has been confirmed by us in writing or, in the absence thereof, once we have demonstrated our acceptance of the agreement by commencing performance. In the case of a sale from warehouse stock, the invoice will replace the written confirmation.
- 4.2 Changes to the nature and/or scope of the agreement to be performed will only be valid if and insofar as these have been agreed explicitly in writing. Any ensuing costs will be charged separately.
- 4.3 At the time of or following the conclusion of the agreement and before rendering any (further) performance, we are entitled to require the other party to furnish security for the fulfilment of both payment and other obligations. If the other party refuses or fails to do so, we will have the right to dissolve the agreement without the other party acquiring any right to compensation as a result.
- 4.4 If we believe that this is necessary or desirable for the proper fulfilment of the order given to us, we are authorised to call in third parties to perform the agreement; the costs of this will be passed on to the other party.
- 4.5 The other party is required to provide us on time with all the information and documents required for correct performance of the agreement. If the information needed for performance of the agreement has not been supplied to us in a timely fashion, we will have the right to suspend performance and/or to charge the other party for any extra costs arising from the delay at the usual rates.
- 4.6 If it has been agreed that the agreement will be implemented in stages, we may suspend performance of the parts that belong to a subsequent stage until the other party has provided written approval of the results of the preceding stage.

#### 5. Prices

- 5.1 Unless stated otherwise, the prices quoted by us are based on the purchase price and other cost factors. Unless stated otherwise, our prices are:
- based on delivery ex our company, warehouse or other storage depot, in other words 'ex works' in accordance with Incoterms 2000;
  - exclusive of VAT, any import duties, other taxes, levies and duties; any interim changes or imminent government levies will be passed on;
  - exclusive of the costs of packaging materials, loading and unloading, transport/dispatch, administration and insurance;
  - stated in EUROS (€); any interim currency fluctuations will be passed on.
- 5.2 In the event of an interim unforeseen increase in one or more cost factors, we will be entitled to increase the order price accordingly in compliance with any relevant statutory regulations. For any hours worked outside the normal working hours, we can charge a rate of 150% of the applicable hourly rate.
- 5.3 If materials are supplied by the other party to execute any work, we will have the right to include these in the order price up to a maximum of 20% of the cost price for the materials concerned that we would charge in similar cases.

## 6. Payment

- 6.1 Unless otherwise agreed upon in writing, payment must be made in cash upon delivery, without applying any discount or offsetting, or through payment or transfer into a bank or giro account we designate within 7 days after the invoice date. The value date specified on our bank statement will be considered to be the date of payment.
- 6.2 All payments made by the other party first serve to pay any interest and collection costs incurred by us and only thereafter will they be used to settle the oldest outstanding invoice(s). We can reject an offer to pay, without being in default as a result, if the other party indicates a different allocation sequence. We can refuse full repayment of the principal sum if the accumulated arrear interest and the interest currently accruing, as well as the costs, are not settled at the same time.
- 6.3 Objections to the amount of the invoices will not suspend the obligation to pay.

## 7. Interest and costs

- 7.1 If payment has not been made within the specified timeframe, the other party will be in default by operation of law and, from the invoice date onwards, will owe the statutory (commercial) interest on the (still) outstanding amount for every (part of a) month, as well as any loss caused by its non-payment, such as differences in the exchange rate.
- 7.2 All judicial and extrajudicial costs to be incurred will be borne by the other party. The judicial costs include all actual costs of legal and procedural assistance incurred during court proceedings which exceed the liquidated rate of our provider of legal assistance. The extrajudicial collection charges amount to at least 15% of the sum owed by the other party, including the aforementioned interest, subject to a minimum of € 250.

## 8. Delivery

- 8.1 Once a purchase agreement has been concluded, the other party will bear the risk for the items bought. Unless otherwise agreed, delivery will be ex our company's warehouse, in other words 'ex works' in accordance with Incoterms 2000.
- 8.2 The moment when the items bought are ready for transport will be considered to be the time of delivery.
- 8.3 If the delivery will be done on an 'Incoterms' basis, the 'Incoterms' that are valid at the time the agreement is concluded will apply.
- 8.4 The other party is obliged to take delivery of the goods at the moment we deliver them to it or have them delivered to it, or at the moment they are placed at its disposal in accordance with the agreement.
- 8.5 The other party is obliged to inspect (or arrange inspection of) the items for any shortcomings and/or damage, and must do so within 5 working days after the delivery or after our notice that the items are at the other party's disposal.
- 8.6 We are entitled to make partial deliveries, which we may invoice separately.
- 8.7 Delivery times stated are always approximate, unless explicitly agreed otherwise in writing.
- 8.8 If, after the delivery time has lapsed, the other party has not taken delivery of the goods, or if the other party is late supplying information or instructions necessary for the delivery, the goods will be stored by us and kept at the other party's disposal at the latter's risk and expense against payment of our corresponding invoice(s).

## 9. Transport and risk

- 9.1 Unless otherwise agreed, the risk for the goods will pass to the other party the moment we have placed the items at its disposal in accordance with the agreement.
- 9.2 If and insofar as it is agreed that transport will be taken care of by us, the storage, loading, transport and unloading will take place at the other party's expense and risk, unless explicitly specified otherwise. The other party can take out insurance to cover said risks.

9.3 The costs for fulfilling any specific wishes that the other party has concerning transport/dispatch will be borne by the other party.

## 10. Cancellation, suspension and dissolution

10.1. In the event that the agreement is cancelled by the client, whatever the reason, we reserve the right to demand performance. If, after an agreement has been established, the other party wishes to cancel it and we accept this, the other party will be obliged to compensate us for any costs incurred up to that point and will be charged 25% of the order price (excl. VAT) as cancellation costs, without prejudice to our right to full compensation including lost profits.

10.2 We are entitled to suspend fulfilment of the obligations or to dissolve the agreement in the event that:

- the other party does not fulfil all or some of its obligations under the agreement.
- after concluding the agreement we learn of circumstances that constitute valid grounds for fearing that the other party will not fulfil its obligations. In the event of valid grounds for fearing that the other party will only fulfil its obligations in part or will fail to fulfil its obligations properly, suspension will only be permitted to the extent justified by the shortcoming.
- at the time the agreement was concluded, the other party was requested to furnish security for the fulfilment of its obligations under the agreement and this has not been furnished or is inadequate. Once security has been furnished, the right to suspend fulfilment will lapse unless this fulfilment has been delayed unreasonably.

10.3 In the event that the other party:

- is declared bankrupt, assigns its estate or requests a moratorium on payments, or if some or all of its property becomes the subject of an attachment order,
- dies or is placed under guardianship,
- does not fulfil any one of its obligations under the Law or under these conditions,
- fails to pay all or part of an invoice amount within the set timeframe,
- ceases its operations or assigns its business or a major part of it, which includes contributing its business to a new or existing company, or changes the purpose of its business,

we will be entitled by the mere occurrence of such a circumstance either to dissolve the agreement or to demand any amount owed by the other party on the basis of the services provided by us, immediately and without warning or notice of default and without prejudice to our right to compensation for costs, loss and interest.

10.4 Moreover, we are entitled to dissolve the agreement (or have this done) in the event of circumstances of such a nature that we can no longer be required to fulfil the agreement, either in conformance with standards of reasonableness and fairness or otherwise, or in the event of other circumstances of such a nature that the agreement cannot reasonably be expected to be maintained as it stands.

10.5 If the agreement is dissolved, all amounts owed to us by the other party will become due and payable immediately. If we suspend fulfilment of the obligations, we will retain the entitlements under the law and under the agreement.

10.6 In the event of suspension or dissolution, we will always reserve the right to demand compensation.

## 11. Force majeure

11.1 "Force majeure" is understood as:  
any circumstance beyond the parties' control or unforeseeable that means that performance of the agreement can no longer reasonably be required by the other party, including strikes within our company.

11.2 If one of the parties is of the opinion that a force majeure situation has occurred (or will occur), this party must immediately inform the other party of this.

11.3 If the force majeure is or will be of a temporary nature in our opinion, we will have the right to suspend performance of the agreement until the circumstance causing force majeure is no longer present.

- 11.4 If we are of the opinion that the force majeure situation is of a permanent nature, the parties can make arrangements for the dissolution of the agreement and the associated consequences. In that case, the parties will not be entitled to compensation for the loss (to be) suffered, unless otherwise agreed.
- 11.5 We are also entitled to invoke force majeure if the circumstance preventing (further) fulfilment commences after we should have fulfilled our commitment.
- 11.6 We are entitled to demand payment for performance already rendered under the agreement. In that event, the charge made will be proportional without the parties otherwise owing each other anything.

## 12. Liability

- 12.1 Save in the event of our intent or gross negligence, any liability on our part for loss or damage of whatever nature, direct or indirect, as a consequence of defects in or to goods sold, services rendered or work performed, both at the other party's premises and at those of third parties, is explicitly excluded.
- 12.2 Save in the case of intent or gross negligence, we will not be liable either for mistakes made by our staff or by anyone whose services will be or have been enlisted by us within the context of performance of the agreement.
- 12.3 In any case, our liability will be limited to the amount that will be paid out by our insurer in the case in question, but will not under any circumstances exceed the total amount of the order concerned.
- 12.4 If information is supplied late by the client or by third parties or if the information supplied is incorrect or deficient, we will not be liable for the consequences of this and will make a separate charge for any resulting costs that we incur. Any agreed (delivery) deadlines, even if these have the character of fixed deadlines, will only be target dates from that moment onwards.
- 12.5 The order is to be executed within the deadline agreed with the client, save where circumstances arise that cannot reasonably be attributed to us. Unless otherwise agreed explicitly and in writing by the parties, this is not a fixed deadline, so a written notice of default will be required before default commences. This article will also apply to any liability on our part due to the missing of this deadline.
- 12.6 We are not liable for the removal, take-back or otherwise of transport and/or consumer packaging that has been used to fulfil the order.
- 12.7 Any liability on our part will always end one year after delivery.
- 12.8 The provisions of this article also apply in favour of any (legal) persons or entities whose services we enlist to perform the agreement. Therefore, any persons entrusted with fulfilling our order who are held liable may also invoke this article as though they themselves were party to the agreement.

## 13. Indemnification

- 13.1 The client is obliged under the agreement to indemnify us against any claims by third parties (or government authorities) and is liable for any resulting costs.
- 13.2 The other party will indemnify us against any consequences of acts or omissions taking place or having taken place under our responsibility that violate rights of third parties and/or which damage third parties or contribute to any damage, provided that the cause of the violations and/or damage in question lies in circumstances that may be attributed to the other party or which fall within the latter's sphere of risk, save in the event that the evidence that we are to blame significantly outweighs the evidence that the other party is to blame.

## 14. Confidentiality and privacy

- 14.1 Both parties are obliged to maintain confidentiality in respect of all confidential information that they have obtained from each other or from another source within the context of the agreement. The party receiving confidential information will use this only for the purpose for which it has been supplied. Information is deemed to be

confidential if it is announced as such by either party or if this is evident from the nature of the information.

- 14.2 If, on the basis of a statutory provision or a court ruling, we are obliged to share confidential information with third parties designated by law or by the competent court, and we are unable in this matter to invoke a right to refuse that is recognised or permitted by law or by the competent court, then we will not be obliged to issue compensation or indemnity and the other party will not be entitled to dissolve the agreement on the grounds of any resulting damage.
- 14.3 The other party will indemnify us against claims by persons whose personal data is registered or will be included in personal data records kept by the other party or for which the other party is otherwise responsible under the law, unless the other party proves that the facts supporting the claim are exclusively attributable to us.

## 15. Retention of title

- 15.1 Delivered goods and documents relating to them will remain our property until all the deliveries we have made or have yet to make and all the work we have performed or have yet to perform under the agreement, including interest and costs, have been paid for by the other party.
- 15.2 The other party undertakes, now for then, to lend its full assistance so that we may have the opportunity to take back the goods and documents concerned.
- 15.3 The other party is not authorised to pledge the goods and documents to third parties or to grant third parties any right to them. Any other party acting as a reseller may sell and resell any goods that are subject to our retention of title provided that this is customary in the ordinary course of its business. In that event, the other party shall be obliged to resell under retention of title.
- 15.4 The other party is obliged to store the goods carefully, to make sure that they are sufficiently identifiable as our property and to keep them fully insured.
- 15.5 If the other party (partly) creates a new object from the goods delivered by us, the other party will create this object just for us and will keep the newly created object for us until the other party has paid all amounts due under the agreement; in that case, we will hold all rights as owner of the newly created object until the other party has paid in full.
- 15.6 If applicable, rights will always be granted or assigned to the other party on the condition that the other party pays the remuneration agreed for this on time and in full.
- 15.7 We may retain the goods, products, property rights, information, documents, data files and service results received or generated by us within the framework of the agreement, despite an existing obligation to surrender them, until the other party has paid all amounts owed to us.

## 16. Intellectual property rights

- 16.1 All intellectual property rights to the drawings, sketches, reports, contracts, instructions for use and other documents, as well as scale-models, models, samples, packaging or other materials, including preparatory material, developed or provided in accordance with the agreement or offer will rest exclusively with us. The other party will only obtain the rights of use that are explicitly granted under these terms and conditions and by law.
- 16.2 To the exclusion of all other parties, we have the right of realisation, publication and duplication. Any right of use due to the other party will be non-exclusive and non-transferable to third parties, unless explicitly agreed otherwise.
- 16.3 Any transfer of an intellectual property right can only be effected explicitly in writing.
- 16.4 Without our explicit consent in writing it is not permitted to repeat the realisation of any design of ours, even if this only concerns part of such a design, whether executed or not.
- 16.5 We may attach terms and conditions to the granting of our consent referred to in paragraph 4, including a financial payment.
- 16.6 If the parties have agreed that we will not manage the execution, the client must give us the opportunity to see to it that its design is realised in accordance with our aims.

- 16.7 The work that we carry out for supervision purposes as referred to in paragraph 6 will be paid for separately.
- 16.8 We have the right to realise our designs repeatedly if and insofar as any reasonable interests of a previous client do not dictate otherwise and only after we have consulted with the previous client or, if the latter is not receptive to consultation, only after we have notified it.
17. Competition clause
- 17.1 For the duration of the agreement, as well as for one year after the agreement ends, each party will not in any way whatsoever (save after corresponding consultation on a sound and impartial basis and after obtaining the prior written consent of the other party) employ or otherwise directly or indirectly engage employees of the other party or of companies whose services have been enlisted for the purposes of performing the agreement and who are or have been involved in the performance of the agreement.
- 17.2 For every violation identified, the client will owe us a fine of € 25,000, which will be payable immediately and not open to setoff. This is without prejudice to demands for compensation on legal grounds or under the agreement.
18. Complaints and defects
- 18.1 Any complaints relating to defects, or invoices, will only be processed by us if we have received them directly in writing – by registered letter – within 5 days after delivery of the performance in question and/or the invoice date, subject to the provision of precise details of the nature and grounds of the complaints, or within the same period of time after a defect has reasonably been or may reasonably be discovered.
- 18.2 Upon the expiry of this term or these terms, the other party will be deemed to have approved the delivered goods or the invoice, respectively. In that case, we will no longer deal with any complaints.
- 18.3 If we find a complaint to be valid, we will only be obliged still to deliver the agreed performance. Performance will be deemed sole and full compensation; any further liability for whatever reason is explicitly excluded.
- 18.4 If a complaint is made in a timely fashion pursuant to this article, the other party will still be obliged to take delivery of and pay for the goods bought. The goods delivered may only be returned with our prior written consent.
- 18.5 If we require it to do so, the other party must return the corresponding goods to us, carriage paid, in their original state and packaging.
19. Deviations and quality control
- 19.1 Weight and/or quality must be determined as soon as the risk of damage to or loss of the goods sold passes to the other party as prescribed in article 9.
- 19.2 If the other party does not see to it that weight and/or quality are determined, our findings in this regard will be considered binding.
- 19.3 Minor deviations from stated dimensions, weights, compositions or colours, or other deviations, that do not result in any fundamental change to the composition, realisation or applicability of the goods, will not give the other party the right to cancel or (partly) dissolve the agreement or the right to refuse to receive or pay for the goods.
- 19.4 Any deviation up to a maximum of 10% will be deemed a minor deviation as referred to in article 19.3.
- 19.5 All certificates issued in the country of origin, which ordinarily constitute sufficient proof of quality for importers, will also constitute sufficient proof of quality for the other party.
- 19.6 With the sale or delivery of cereals, seeds, peas, beans or chunks, etc., any broken cereals, seeds, peas, beans or chunks, etc. and/or flour must be received and paid for as cereals, seeds, peas, beans or chunks, etc.

20. Applicable law

- 20.1 All our offers, agreements and the performance of the same are exclusively governed by Dutch law. The Vienna Sales Convention is explicitly excluded. Other international arrangements that might be applicable to the agreement are also excluded if and insofar as the corresponding arrangement allows exclusion.

21. Disputes

- 21.1 Any disputes, including those that are only regarded as such by one party, which stem from or are associated with the agreement to which these terms and conditions apply or the corresponding terms and conditions themselves as well as their interpretation or execution, of both a factual and a legal nature, will be settled by the competent court in Rotterdam (NL), unless mandatory statutory provisions stipulate otherwise.
- 21.2 The parties will only appeal to the court once they have done their utmost to try to settle a dispute by mutual agreement.
- 21.3 Nevertheless, we are entitled to have the dispute settled by arbitration or mediation, in which case we will inform the other party of this in writing.
- 21.4 In the event that the dispute is settled by arbitration, three arbitrators will issue a judgment with due diligence and in all fairness. For appointment of the arbitrators, each of the parties will appoint one and the third will be appointed by these two arbitrators together. The arbitrators' costs and fees will be borne by the parties as decided by the arbitrators.
- 21.5 If the parties opt to bring the dispute before a mediator, the parties will mutually agree on an independent mediator who will mediate between the parties. This procedure will not lead to a verdict that is binding for the parties. Participation in this procedure will be on a voluntary basis. The costs will be borne by the parties themselves.

22. Amendment to and interpretation of the terms and conditions

- 22.1 For interpretation of the content and purpose of these General Terms and Conditions, the Dutch text will always be decisive.
- 22.2 The latest version filed or the version valid at the time the agreement was formed is always applicable.