

General Terms and Conditions

Article 1 Definitions

The capitalized terms set forth below, as used in these General Terms and Conditions, shall have the following meanings.

“GTC” shall mean these General Terms and Conditions.

“Seller” shall mean Delta Food B.V., having its registered office at Hilleweg 42, 4464 JA Goes, The Netherlands.

“Buyer” shall mean Seller’s counterparty.

“Parties” shall mean Seller and Buyer together.

“Offer” shall mean an offer from Seller to Buyer for the sale of Goods.

“Agreement” shall mean the agreement between Seller and Buyer for the sale and purchase of Goods.

“Order” shall mean an order from Buyer to Seller for the purchase of Goods.

“Order Confirmation” shall mean a confirmation from Seller to Buyer for the sale of Goods.

“Goods” shall mean the agricultural and other products offered and sold by Seller.

Article 2 General

1. These GTC apply to all Offers, Agreements, Orders and Order Confirmations and may not be changed or any part waived except as explicitly agreed otherwise in writing by the Parties.

2. These GTC are likewise applicable on all Agreements with Buyer, in case third parties are involved with the execution.

3. The applicability purchase conditions or other conditions of Buyer are explicitly disclaimed.

Article 3 Offers

1. Offers are made entirely without obligation, unless stated otherwise in writing. On acceptance of an Offer Seller has the right to withdraw the Offer within two working days after receipt of such acceptance.

2. Unless specifically stated otherwise in writing, all prices stated in Offers and Agreements are excluding all sorts of taxes, duties, levies, transportation, shipping and insurance.

Article 4 Order Confirmation

1. Seller shall send Buyer an Order Confirmation through E-mail or in writing at the earliest opportunity. Buyer shall be deemed to have accepted such Order Confirmation if no objection thereto is received by Seller through E-mail or in writing within three days after sending the Order Confirmation to Buyer.

2. The acceptance of Goods constitutes proof for the existence of an Agreement.

Article 5 Deliveries

1. All Offers and Agreements shall be subject to the latest version of the Incoterms of the International Chamber of Commerce.

2. Goods shall be sold and delivered by Seller ex works as meant in the Incoterms, unless specifically otherwise agreed in writing.

3. Buyer is obliged to accept the delivery of purchased Goods at the time and place determined in the Agreement. Buyer is to provide the necessary delivery instructions for that purpose in good time.

4. Stated delivery dates shall not be regarded as final dates, unless explicitly agreed otherwise.

Article 6 Quality

1. On delivery, products shall satisfy the quality requirements contracted in the Agreement. Such quality requirements shall be stated in the Order confirmation. If this is not the case,

Seller’s general quality standards shall apply.

2. Buyer has full rights to submit claims at the time of actual delivery or ex works. Buyer has the right to attend delivery in person or through a representative.

3. Rights to submit claims regarding deliveries of fresh Goods expire one working day after such products have been delivered to Buyer or have been put at Buyer’s disposal. Rights to submit claims regarding deliveries of other Goods expire eight days after such Goods have been delivered to Buyer or have been put at Buyer’s disposal.

Article 7 Suspension

1. If Seller has sound reasons to fear that Buyer will be in default on acceptance, payment or other commitments, and Buyer fails to respond to a written warning, requiring that it declares its willingness and proves its ability to meet such commitments within a reasonable period, Seller has the right to suspend its delivery commitments. At the end of a two-week suspension period Seller has the right to terminate any outstanding part of the Agreement, with the right to claim damages suffered as a result of such suspension and termination. Seller should notify Buyer accordingly by letter.

2. The same applies if a petition is filed for Buyer’s winding up, if Buyer applies for a moratorium of payments, if Buyer is declared bankrupt, or in the event of distraint upon any of Buyer’s capital assets. Seller then has the right to demand immediate payment of all receivables from Buyer.

Article 8 Force majeure

1. In the event of force majeure Seller has the right to suspend compliance with its commitments under the Agreement while the circumstances in question pertain.

2. If such circumstances persist for a period of more than two weeks, or if it is immediately clear that this will be the case, Seller has the right to terminate the outstanding part of the Agreement, without liability for Buyer’s damages.

3. Seller shall notify Buyer immediately if it avails itself of the rights described in clauses 1 and 2 of this article and shall confirm such notification by registered letter.

4. ‘Force majeure’ is deemed to refer to all circumstances that could not have been foreseen when the Agreement was contracted, for which Seller cannot be held responsible and as a result of which compliance with the Agreement is practically impossible or becomes so difficult that it cannot reasonably be required of Seller. Force majeure within the meaning of the preceding sentence are deemed to include war, mobilization, strikes at supplier companies, fires at business premises, extreme weather conditions that obstruct logistic operations etc., including full or partial failure of harvests due to drought or continual and/or intensive rainfall, frost, crop diseases, pest plagues, radioactivity etc. in the region from which Seller normally buys the raw material.

5. In the event of government measures restricting import, transit or export of sold products, or measures that make such activities financially disadvantageous, the Seller has the right to terminate the outstanding part of the Agreement, with no liability for damages, or, if delivery is made, no right to require compensation from the Buyer for the losses suffered as a result of such measures.

6. In case of special circumstances, unknown

and not be foreseen at the moment of the concluded Agreement, the market price of Goods as from date of Agreement until the delivery date increases with 50% or more, Seller has the right either to withhold from supply or to supply at a new agreed price based on that time on day prices of the market for such Goods.

Article 9 Payment

1. Invoices fall due for payment within 30 days of the invoice date, unless otherwise agreed. All payments shall be made in full, with no deductions or settlement of receivables.

2. In the event of late payment after 45 days of invoice date, Seller is obliged to announce the late payment to the insurance company. All costs involved by arranging collection of the money through a lawyer, including extrajudicial costs are for the account of Buyer.

3. In the event of failure to pay invoices within the agreed term, Seller has the right to suspend further deliveries until outstanding invoices are settled or, at Seller’s discretion, until a bank guarantee or other form of security has been provided for outstanding payments of completed and future deliveries.

4. If, after conclusion of the Agreement, a credit limit can no longer be granted by the insurance company, Seller has the right to require a bank guarantee or other form of security prior to delivery.

5. In the event of final failure of payment or ability for payment by Buyer, Seller cannot be kept responsible for non-delivery and following expenses or compensation for damages.

Article 10 Reservation of Title

1. Products delivered by the Seller remain Seller’s property until such time as Buyer has satisfied all contractual commitments to the Seller.

2. In the event of non-payment, a moratorium on payments or winding up of Buyer, Seller has the right to repossess the products or processed products and to enter Buyer’s land and buildings for that purpose.

3. Reservation of title is upheld, even after delivered products are no longer present in the form and packaging in which they were delivered by Seller.

Article 11 Product Liability

1. Seller is not liable for any damages caused to Buyer’s personnel and/or property, or to those of third parties, by contractual delivery of products, unless such damages are the result of malicious intent or gross negligence of the part of Seller.

2. Buyer is required to indemnify Seller against third party claims for any damages whatsoever to persons and/or property arising from the delivered products, and against all damages and costs resulting from such claims.

Article 12 Disputes

1. These GTC and all Offers, Agreements, Orders and Order Confirmations shall be governed by the laws of The Netherlands. Parties consent to jurisdiction by the courts of Seller’s and Buyer’s place of residence.

2. Parties only shall go into court after having done from both sides utmost to solve the outstanding issue in mutual consultation.