



GENERAL TERMS AND CONDITIONS OF PURCHASE AND SALE OF MSP UIENHANDEL B.V. trading as MSP ONIONS

These General Terms and Conditions of Purchase and Sale of MSP Uienhandel B.V. are deposited with the Chamber of Commerce under number 22039337.

I. GENERAL PROVISIONS

The following provisions in *Section I. General provisions* apply to all Contracts with MSP Onions.

1. Definitions

The terms used in these General Terms and Conditions that are written with a capital have the meaning as defined in this article:

- **"General Terms and Conditions"**: These General Terms and Conditions of Purchase and Sale.
- **"Industry Conditions"**: In these General Terms and Conditions, the term "Industry Conditions" means the following sets of Industry Conditions:

"AVZ": General Terms and Conditions for the Purchase and Sale of onion seeds (*Algemene Voorwaarden voor de in- en verkoop van zaaiuien*), version 2025, with the exception of the arbitration clause and the arbitration regulations. Source: <https://www.msp-onions.com/en/msp-onions/terms-and-conditions>

- **"VBNA/VENEXA Conditions"**: General Trading Terms and Conditions for the Wholesale Trade in Potatoes with related arbitration regulations (*Algemene Handelsvoorwaarden Groothandel in Aardappelen*) (adopted by V.B.N.A. and VENEXA), 1986 version. Source: <https://www.msp-onions.com/en/msp-onions/terms-and-conditions>

- **"Buyer"**: The party, being either a natural person or a legal entity, who, by means of a representative or otherwise, enters into a Contract with MSP Onions on the basis of which MSP Onions sells Products to the Buyer.

- **"MSP Onions"**: The private limited company MSP Uienhandel B.V., the registered office of which is based in Nieuwddorp, having a place of business at Hertenweg 34, 4455 TL Nieuwddorp, registered in the business register under Chamber of Commerce number 22039337, including all affiliated undertakings, being – but not limited to – Moerdijk Sorteer- en Pakstation (M.S.P.) Beheer B.V. (Chamber of Commerce: 22025235); Moerdijk Sorteer- en Pakstation (M.S.P.) B.V. (Chamber of Commerce: 22041811); Agri Base B.V. (Chamber of Commerce: 65707842).

- **"Contract(s)"**: All contracts, i.e. legal relationships concerning, among other things, purchase and sale, services and/or (other) work, between MSP Onions on the one part and the Seller and/or the Buyer and/or the other contracting party on the other, to which these General Terms and Conditions apply and therefore form an integral part thereof;

- **"Products"**: The Products are: onion seeds and sets, seeds and seedlings, potatoes, vegetables, fruit and similar products. The Products are characterised by the fact that they are (perishable) natural products, which are subject to natural processes, including, but not limited to, condensation, mould, rot, loss of moisture, weight loss, etc. In addition, in some cases the Products may also include packaging material.

- **"In Writing/Written"**: In addition to communications by (registered) letter, the term "in Writing/Written" also includes communications by e-mail, fax or WhatsApp (with the exception of communications via X, Facebook, Instagram, etc.).

- **"Seller"**: The party, being either a natural person or a legal entity, who, by means of a representative or otherwise, enters into a Contract with MSP Onions on the basis of which the Seller sells Products to MSP Onions.

- **"Shipment"**: A truck load of the contracted Products.

- **"Vienna Sales Convention"**: The United Nations Convention on Contracts for the International Sale of Goods, Vienna, 11/04/1980.

2. Applicability

2.1 **Applicability**. These General Terms and Conditions apply to the Contract, even after it has been terminated.

2.2 **Additional applicability**. Depending on the nature of the Contract in question, as referred to below, additional Industry

Conditions (i.e. insofar as the Contracts and/or these General Terms and Conditions, do not provide for a specific arrangement and/or situation because it is not described therein, the following additional Industry Conditions apply per distinct type of contract to which they are declared to apply), insofar as there has been no deviation therefrom below, in the event of:

purchase of onions the AVZ with the exception of articles 4 e), 5, 10, 11, 13 and the arbitration regulations;

sale of ware potatoes the VBNA/VENEXA Conditions, with the exception of article 37.3;

2.3 **Ranking**. In case of a conflict of provisions of the Contract and/or these General Terms and Conditions and/or the Industry Conditions, the following ranking applies:

I. the Contract;

II. these General Terms and Conditions;

III. the Industry Conditions.

2.4 **General terms and conditions of the other contracting party**. Any general terms and conditions to which the other contracting party refers in any way or which the other contracting party declares to apply expressly do not apply to the Contracts with MSP Onions.

2.5 **Deviations**. Deviations from these General Terms and Conditions are hereby expressly rejected, unless MSP Onions confirms them to the other contracting party for each Contract anew expressly and in Writing.

3. Termination

3.1 MSP Onions has the right to suspend the performance of any Contract in whole or in part or to terminate (*beëindigen*) or cancel (*ontbinden*) any Contract without prior notice of default or judicial intervention with immediate effect, without being bound to pay any compensation, in the event that:

- the other contracting party defaults on the performance of one or more obligations under the Contract or related contracts,

- MSP Onions suspects that the other contracting party is not or will not be able to perform his obligations under the Contract and does not give a bank guarantee provided by a Dutch bank within 48 hours after being requested for such by MSP Onions, which bank guarantee complies with MSP Onions' request,

- in MSP Onions' opinion important changes have occurred in the direct or indirect ownership or control relationships at the business of the other contracting party, or if the business of the other contracting party is terminated or sold.

3.2 In the event of termination or cancellation, MSP Onions is in no case liable for any compensation. The other contracting party is bound to indemnify MSP Onions against claims of third parties which are made by or in connection with the termination or cancellation of the Contract.

3.3 The other contracting party cannot extrajudicially terminate the Contract.

3.4 If and insofar as the other contracting party terminates the Contract(s) in whole or in part, as a result of whatever cause, the other contracting party must pay an indemnification which is at least equal to 25% of the invoice amount(s) of the terminated Contract(s), without prejudice to MSP Onions' right to additional compensation. In addition, MSP Onions is in such case entitled to charge all costs made up to that time. Article 6:92 of the Dutch Civil Code does not apply to the Contract(s).

4. Other provisions

4.1 **Entire contract**. The Contract, including these General Terms and Conditions, encompasses the entire Contract with MSP Onions and takes the place of every other previously concluded oral and Written contract in this respect.

4.2 **Transfer**. Without MSP Onions' prior Written consent, the other contracting party is not permitted to transfer his rights and/or obligations under the heading of the Contract, including these General Terms and Conditions. MSP Onions has the right to transfer the Contract(s) and all rights and obligations ensuing therefrom, as well as all its legal relationships relating to the other contracting party. The other contracting party hereby grants his irrevocable cooperation in this respect, by entering into a Contract with MSP Onions.

4.3 **Validity**. If one of the provisions (or a part thereof) of these General Terms and Conditions or any part of the underlying Contract were to be invalid or unenforceable, this shall not affect the content of the provision and the General Terms and Conditions for the rest, i.e. the underlying Contract shall remain in effect.

4.4 In such case the parties shall replace the invalid or unenforceable provision with a valid and enforceable provision which approximates the essential purpose of the invalid or unenforceable provision as much as possible.

4.5 **Language**. In the event of a dispute on the meaning of the translation of these General Terms and Conditions, the Dutch text shall be decisive.

4.6 **Area of application of protective provisions**. All subcontractors, agents, representatives, employees or others who have received instructions from, or who have been appointed or employed by MSP Onions, shall each enjoy the same protection and are entitled to the same exclusions, exemptions and limitations of liability as apply with regard to MSP Onions itself on the basis of this Contract, including these General Terms and Conditions.

4.7 **Confidentiality**. The other contracting party is obliged to keep all confidential information (about the business of) MSP Onions, which becomes known to the other contracting party and his employees under the heading of the Contract, both during the Contract and during a period of five (5) years after termination of the Contract, strictly confidential, both with regard to third parties and with regard to the other contracting party's employees.

4.8 Confidential information is broadly defined and encompasses all non-public information which upon disclosure could in some way be harmful for MSP Onions or useful for its competitors and in any event encompasses data of clients and/or other business relations, prices, business models and volumes of MSP Onions which becomes known to the other contracting party and his employees under the heading of the Contract.

4.9 Confidential information which is requested on the basis of a statutory obligation or by a public authority is excepted from the above-defined confidential information. The other contracting party shall inform MSP Onions in this respect.

4.10 **Notification**. All notifications or other correspondence to MSP Onions relating to this Contract, including these General Terms and Conditions, take effect as of receipt and shall be effected in Writing.

4.11 For this purpose, MSP Onions' address and contact details are set out below:

MSP Onions

Address: **Hertenweg 34
4455 TL Nieuwddorp
The Netherlands**

E-mail: **info@msp-onions.com**

5. Applicable law

5.1 The Contract and all legal relationships and/or obligations arising from or connected with the Contract to which these General Terms and Conditions apply, including any matter concerning the existence, the validity or the termination of the Contract and of non-contractual disputes, shall only, unless otherwise stipulated elsewhere in these General Terms and Conditions, be governed by Dutch law.

5.2 The provisions of the Vienna Sales Convention are excluded.

6. Dispute resolution

6.1 **Arbitration**. If the VBNA/VENEXA Conditions apply or are declared to apply in accordance with article 2.2, all disputes between the parties arising from or connected with the Contract and all legal relationships and/or obligations arising from or connected with the Contract, including every matter concerning the existence, the validity or the termination of the Contract and concerning non-contractual disputes, to which these General Terms and Conditions apply, shall exclusively be decided by arbitration in accordance with the arbitration regulations of the VBNA/VENEXA Conditions. The arbitration proceedings, including the oral arguments, shall take place in Wageningen (the Netherlands). The proceedings shall be conducted in Dutch. Stichting Geschillenbeslechting in de Landbouw c.a shall act as arbitration board.

6.2 **Competent court**. If the VBNA/VENEXA Conditions do not apply or have been declared not to apply, all disputes between the parties arising from or connected with the Contract and all legal relationships and/or obligations arising from or connected with the Contract, including every matter concerning the existence, the validity or the termination of the Contract and concerning non-contractual disputes, to which these General Terms and Conditions apply, shall exclusively be decided by the District Court of Rotterdam, Rotterdam location.

6.3 If MSP Onions is held to be in the right in whole or for the greater part in (arbitration) proceedings, all costs it has made in connection with these (arbitration) proceedings are for the expense of the other contracting party.



6.4 Time-barring/lapsing of claim. Notwithstanding other provisions in these General Terms and Conditions concerning the time-barring and/or lapsing of claims, all claims on MSP Onions shall be time-barred one (1) year after they have arisen. The right to bring legal action against MSP Onions shall lapse one (1) year after this right has arisen, or as much earlier as is stipulated in these General Terms and Conditions and the Industry Conditions.

II. PROVISIONS CONCERNING PURCHASE

Subject to the Industry Conditions that have been declared to apply in addition to these General Terms and Conditions in article 2.2 above, the following provisions apply in *Section II. Provisions concerning purchase*, in the event there is a Purchase Contract between MSP Onions and the Seller.

7. Entering into of Contract

7.1 All quotes, offers and other information furnished by the Seller, regardless of the form thereof, are irrevocable and binding. The foregoing applies in particular to price specifications.

7.2 A Contract shall only be entered into when MSP Onions has confirmed the offer presented by the Seller in Writing by means of a purchase confirmation.

7.3 Verbal commitments or agreements, partly encompassing changes and/or amendments to the Contracts, by or with personnel or representatives of MSP Onions are only binding if and insofar as these have been confirmed in Writing.

7.4 If the Seller has not objected to the content of the purchase confirmation in Writing within 24 hours after receipt of the purchase confirmation, to which these General Terms and Conditions apply, the purchase confirmation is deemed to correctly represent the Contract and the parties are bound by the purchase confirmation.

8. Delivery

8.1 Delivery conditions. The delivery of the Products and the provisions regarding the delivery costs and the transfer of the risk shall be effected in accordance with the conditions usual in commercial transactions (such as EXW, FCA, CPT, CIP, DAT, DAP and DDP as stated in the INCOTERMS, as published by the International Chamber of Commerce in Paris, France, at the time the Contract in question is entered into, as referred to in article 7) as agreed between MSP Onions and the Seller. If no conditions have been agreed between MSP Onions and the Seller, delivery shall be effected Delivery Duty Paid (DDP) at the location of the MSP Onions premises in Nieuwdorp, the Netherlands, or the receiving company to be designated by MSP Onions. In addition, the Seller waives any rights of retention and security.

8.2 The Seller shall deliver upon MSP Onions' first request. If the contract of purchase/sale and/or the confirmation states that delivery shall not be DDP, but on buyer's truck or ex Seller's works, this only means that the transport costs are at MSP Onions' expense. Delivery shall always and only be effected at the location of the MSP Onions premises in Nieuwdorp, the Netherlands, or the receiving company to be designated by MSP Onions.

8.3 The weighing costs and the scooping costs are always at the Seller's expense. The loading time on location is a maximum of two (2) hours. If this loading time is exceeded, the Seller shall owe a waiting time fee of €70 per hour.

8.4 Delivery at an alternative location. If the parties have agreed that the delivery and receipt of the Products is to take place at another location than the address of MSP Onions, the Seller guarantees that:

- the Products to be delivered are ready for loading at the agreed place and the agreed time;
- for the purpose of loading, the loading location, including the site and the goods located thereon, comply with all safety requirements to be set in this respect which are geared to, among other things, preventing damage and injury;
- for the purpose of loading, the materials made available, including loading material (e.g. forklift trucks), etc., comply with all safety requirements to be set in this respect which are geared to preventing damage and injury;
- the Products to be delivered are moved and loaded in such a way that damage, injury, contamination and/or deterioration in quality is prevented;
- if the Products to be delivered are packaged in boxes and/or stacked on pallets, this is done in a safe manner, if necessary making use of wrapping foil, resulting in stable stowage.

8.5 MSP Onions has the right to inspect whether the obligations referred to in article 8.4 have been performed prior

to loading. By extension, MSP Onions has the right based on this inspection to decide against loading at its own discretion and without an obligation to pay compensation. The Seller is liable for all damage and costs arising therefrom, including (but not limited to) damage relating to deterioration in quality, waiting time, transport costs, etc.

8.6 If MSP Onions does not carry out this inspection or has not made any comments with regard to the safety of the loading location, the site and the materials made available, this shall not affect the penalty clause, the compensation and/or indemnification obligation of the other contracting party as set out below.

8.7 If the Seller defaults on one or more of the obligations set out under article 8.4, he shall be in default and shall forfeit to MSP Onions without further notice of default being required a penalty that is immediately due and payable of €50,000. In deviation from the provisions in Article 6:92 of the Dutch Civil Code, this penalty is without prejudice to MSP Onions' right to demand full compensation and performance. The Seller is obliged to indemnify MSP Onions against all financial consequences that can be the result of default on one or more of the obligations referred to under 8.4.

8.8 Delivery conditions. The Seller is obliged to use a soil cleaner when loading the product. Unless expressly otherwise agreed, the Seller shall deliver unwashed Products. The Products shall be completely free of soil and other foreign matter. The Seller is obliged to pay MSP Onions a soil penalty of a minimum of €50 per ton of delivered soil.

8.9 The Seller is obliged to ensure that the temperature of the Products when loading and delivering from the land is a minimum of 6°C and a maximum of 25°C, and in case of delivery from storage a minimum of 6°C. If the Seller acts in contravention of this obligation, MSP Onions has the right to reject the Products.

8.10 Non-delivery or late delivery. In the event of non-delivery and/or late delivery and/or improper delivery, MSP Onions has the right to cancel the Contract without further notice of default, or, at its election, has the right to demand performance; and in all cases MSP Onions is entitled to full compensation.

8.11 Rejection. In the event of (partial) rejection and/or refusal of the Products offered for delivery, MSP Onions has the right at its election to demand replacement delivery or to deduct the rejected quantity from the remaining part of the Contract or to take out a buying hedge as referred to in Art. 7:37 of the Dutch Civil Code; all with full compensation of loss.

8.12 Security. If after entering into the Contract the information on the Seller's financial position is such that performance of the delivery obligation must be deemed uncertain, MSP Onions has the right to demand that the Seller give security for the performance of his delivery obligations in the form stipulated by MSP Onions. If the Seller does not give that security in a timely manner, MSP Onions has the right to cancel the Contract and/or claim compensation.

8.13 Falling behind on delivery. If the Seller is behind on the delivery of the Products and the purchase price of Products already delivered by the Seller has become due and payable, MSP Onions has the right to suspend payment for the Products delivered earlier, until the Seller has effected the deliveries on which it is behind.

9. Late delivery

9.1 Delivery of the Products shall be effected in the manner and at the place and time stipulated in the Contract.

9.2 The delivery period starts as soon as the Contract has been entered into. The Seller shall be in default without the need for notice of default simply by exceeding the delivery period.

9.3 The Seller is obliged to notify MSP Onions in a timely manner and adequately in advance of the delivery and the possibility that delivery might be late.

9.4 Unless otherwise agreed in Writing, the Seller is not entitled to deliver in part shipments. If delivery in part shipments has been agreed, for the application of these General Terms and Conditions delivery also means delivery in part shipments.

9.5 The delivery shall be completed when receipt has been taken of the Products by or on behalf of MSP Onions and MSP Onions has signed for the delivery. The fact that MSP Onions has signed for delivery is without prejudice to the fact that the delivery may later be rejected. Signing does not stand in the way of MSP Onions exercising any right, such as its rights following from default of the Seller.

9.6 The Seller is not entitled to suspend his delivery obligation if MSP Onions defaults on the performance of one of its obligations.

9.7 In the event of late or short delivery of the Products, MSP Onions reserves the right to:

- refuse the Products,
- impose a fixed penalty of €500 (five hundred euros), and
- impose an additional penalty of 5% of the order value for each day that the delay continues, up to a maximum of 30% of the order value.

9.8 If a client imposes a penalty as a result of late or short delivery on the part of MSP Onions, and such penalty is higher than the amount of the penalty which MSP Onions imposed on the Seller for such late or short delivery, MSP Onions is entitled to impose a penalty on the Seller which is equal to the amount of the penalty which the client imposes on MSP Onions. A penalty which is imposed is without prejudice to the Seller's liability to compensate any damage and losses which MSP Onions suffers as a result of the late or short delivery if these losses exceed the amount of the penalty.

10. Quality

General

10.1 If the Products to be delivered are onions, without prejudice to specific requirements and permitted tolerances for each class, upon arrival at the premises of MSP Onions in Nieuwdorp, the Netherlands, or the receiving company to be designated by MSP Onions and within a reasonable period after receipt by the end customer, wheresoever in the world, the Products shall satisfy the following quality requirements. In addition, the Products must be delivered together with the crop registration and the certifications, such as, but not limited to, GlobalGAP, Planet Proof, Grasp.Leaf.

10.2 All onions, including Class I and II as referred to in the UN/ECE standard FFV-25, must be of good quality, mature, whole, dry, healthy, pure, free of visible foreign matter, of good colour, unblemished skins, firm, intact, free of (a) sprouting as referred to in article 10.3, (b) root tufts, (c) pests, (d) free from damage caused by pests affecting the flesh, (e) free from foreign smell, (f) free from foreign taste, (g) frost and hail damage, (h) elements that are foreign to the product, (i) bottlenecks (bolting), (j) seed stems, (k) misshapen onions, (l) open doubled onions, (m) (attached) soil, (n) internal and external, (o) visible and invisible defects and damage, (p) diseases and pests. The onions must comply with the statutory residue standards for crop protection products. The stem must have been twisted off or cut clean and may not be longer than 6 cm. The onions must be of such quality and in such condition that they can withstand transport and Products handling, including machine sorting and packaging, as well as transport by sea to faraway destinations like Africa, Asia, Oceania and Central and South America. They must be able to reach the final destination and consumer in good condition.

10.3 External sprouting is not permitted. Internal sprouting is permitted provided this has not developed further than to a height of 60% counted from the leaf base for a maximum of 1% of the quantity of onions. If less than 1% of the total number of onions has internal sprouting, but in a specific size the percentage of sprouting is greater than 2%, MSP Onions has the right to not pay for that specific size or to pay a price to be determined. The size sorting is based on the outcomes of the optical sorter.

Additional requirements Class I

10.4 Onions in Class I must meet the requirements mentioned under articles 10.1-10.3. In addition, they must be firm and compact. They must be characteristic of the variety. They must be free of swelling. The following defects are allowed, provided they do not affect the general appearance, the quality, the keeping quality and the presentation of the product:

- slight defect in shape;
- slight defect in colouring;
- light staining which does not affect the last dried skin protecting the flesh, provided it does not cover more than one-fifth of the bulb's surface;
- superficial cracks in, and absence of part of the outer skins, provided the flesh is protected.

10.5 10% of the total quantity or weight may consist of onions which do not correspond with the requirements of Class I, but do correspond with the requirements of Class II. Of this 10%, no more than 2% may show the following defects: rot, internal defects, defect in smell and taste, internal and external sprouting and defects making them unsuitable for consumption.

Additional requirements Class II

10.6 Onions in Class II must meet the minimum requirements mentioned under articles 10.1-10.3. They must



be firm. The following defects may be allowed provided the Products retain their essential characteristics as regards the quality, the keeping quality and presentation:

- slight defects in shape;
- slight defects in colouring;
- traces of rubbing;
- slight marking caused by parasites or disease;
- small healed cracks;
- slight bruising, healed, unlikely to impair keeping qualities;
- root tufts;
- stains which do not affect the last dried skin protecting the flesh, provided they do not cover more than half the bulb's surface;
- cracks in the outer skins and the absence of a part of the outer skins from not more than one third of bulb's surface, provided the flesh is not damaged.

10.7 10% of the total quantity or weight may consist of onions which do not correspond with the requirements of Class II. Of this 10%, no more than 2% may show the following defects: rot, internal defects, defect in colouring, defect in smell and taste, internal and external sprouting and defects making them unsuitable for consumption.

Field crops

10.8 Under Class I or II, field crop product means onions that meet the minimum requirements and that can be made ready in the usual manner at the usual costs and packaged by MSP Onions as onions of that class ready for sale. In addition, the field crop product may not contain more than 2% rot, internal defects, defects in colouring, smell and taste and internal and external sprouting.

10.9 If more than 2% of a Shipment has internal rot, MSP Onions has the right to reject the Shipment. This percentage is determined on the basis of the result from the sampling. If the percentage of internal rot across the Shipment is less than 2%, but in a specific size the percentage of internal rot is higher than 2%, MSP Onions has the right to reject that specific size or the right to determine another price. The percentage of internal rot and the weight per size is determined on the basis of the results of the optical sorter.

10.10 If MSP Onions' optical sorter indicates that more than 20% of the Shipment is heavily stained, MSP Onions has the right to reject the Shipment on the basis of heavy stained or to pay for the heavy stained based on new prices to be determined. If the percentage heavy stained on the optical sorter is more than 30%, the Shipment is rejected and MSP Onions cannot process the Shipment for the purposes intended therefore.

10.11 If for field crop products the tare percentage is higher than 15%, or 5% or more of the onions is damaged or 2% or more has rot or shows internal and/or serious defects, or the Products do not meet the agreed quality requirements for other reasons, MSP Onions can refuse to take them and MSP Onions can cancel the Contract, but MSP Onions also has the right to purchase the Products – at its election – for either the contract price or the market price at that time, in both cases reduced by a discount to be determined by MSP Onions in connection with the tare and the extra costs for making the Products ready. The assessment of the percentage for the rejection limit is determined per Shipment. This means that every Shipment for which the percentage tare and/or damage and/or rot and/or internal and/or serious defects is equal to or higher than the rejection limit and/or the onions of that Shipment for other reasons do not meet the agreed quality requirements, can be rejected.

10.12 If one or more Shipments do not meet with the agreed requirements, MSP Onions has the right to cancel the Contract and/or claim compensation.

10.13 If during the unloading process MSP Onions suffers more than the usual nuisance (e.g. if the shoots are longer than 15 cm or are not dry), MSP Onions has the right to pass on the extra costs to the Seller.

11. Inspection upon delivery

11.1 When unloading per truck, a sample is taken in three stages of in total approx. 20 kilogrammes. This sample is taken at the start of unloading, halfway during unloading and at the end of unloading. This sample is then stored in a box. This sample is then weighed for the exact weight. In the event of a moist sample, it will be dried first, after which the sample is weighed again. The ((dried) gross) sample is then inspected and the tare is taken at MSP Onions' premises or the premises of a receiving business designated by MSP Onions. Approved onions will then be weighed again. This will leave the net dry

sample. Without prejudice to the provisions in article 10, for the purpose of payment, the tare percentage is determined as follows: *The total of all gross samples (including moisture) of all Shipments within a purchase order minus the total of all net samples of all Shipments within a purchase order. The outcome thereof is divided by the total of all gross samples (including moisture) of all Shipments within a purchase order.*

11.2 The Seller is invited to attend the taking of the tare and is himself responsible to report to the taking of the tare in time.

11.3 The Seller has the right up to one (1) hour after taking the tare to lodge an objection in Writing, whereby in the event of failure to do so the result of taking the tare is binding on the parties, with the exception of hidden defects and without prejudice to the provisions in article 12. If the Seller objects to the tare result in time, an independent register and/or certified expert shall make a binding determination as to the tare percentage at the expense of the party held to be in the wrong.

11.4 Tare weight. Tare weight means, among other things (see also the Industry Conditions), the Products (including onions) that do not correspond with the requirements of the agreed class, as well as disease, green, rot, or damage caused by pests, damage, sunburn, not intact, bald (in the event of onions where the outer dry skin is missing or cracked with more than 10% of flesh visible), pieces, soil, clumps, defects in colouring, smell and taste, doubling, internal and external sprouting, bottlenecks (bolts), seed stems, misshapen, elements foreign to the product, late, immature Products (including onions) with defects in colouring and/or taste, frost and hail damage, loose skins, soft, abnormal quantities of moisture, glassy rings, growth disruptions, open doubled onions, etc.

11.5 Loose soil is deemed soil tare weight.

11.6 For yellow onions the minimum size is 35 mm and for red and pink onions the minimum size is 40 mm.

12. Inspection after delivery

12.1 The optical sorter can determine certain types of tares. The results hereof take precedence over the results from taking the tare.

12.2 MSP Onions has the right to lodge a complaint about the quality of the delivered Products during a period of five working days after discovery of the defect. In case of an export designation MSP Onions is also permitted to lodge a complaint about the quality within a reasonable period of time after the Products have been received by the end customer and MSP Onions has received the complaint. Complaints can be lodged verbally or in writing.

12.3 If the Seller does not accept the complaint in Writing within 24 hours, MSP Onions shall have an expert assessment carried out. The costs of this expert assessment are at the expense of the party held to be in the wrong. The outcome of this expert assessment is binding on both the Seller and MSP Onions. If the expert determines that the Products do not correspond with the Contract, it shall be established between the parties that the Seller is in breach and MSP Onions has the rights stated in, inter alia, articles 9.7 and 9.8.

13. Prices

13.1 Unless otherwise agreed in writing, all prices are fixed. The Seller is not entitled to increase the prices for any reason whatsoever without MSP Onions' prior Written consent.

13.2 Sack price. If MSP Onions purchases the Products for "sack price" or "sack price minus costs" or words with a similar intent, unless the Contract states otherwise, the purchase price is the same as the sales price *Ex Works* at MSP Onions' premises in Nieuworp, the Netherlands which is realised by MSP Onions, or the receiving company to be designated by MSP Onions minus all costs made by MSP Onions, such as transport, storage, labour, drying, sorting, selling and packaging costs and a margin to be determined by MSP Onions.

13.3 Stock exchange price. If MSP Onions purchases Products (in part) based on the stock exchange price, the Contract determines what exchange listing or combination of exchange listings it is based on and stock exchange means the exchange listings(s) stated in the Contract/purchase confirmation. Average stock exchange in the week of delivery means the average of the highest and lowest listing of that week for the size of the delivered Products. Lower side of the stock exchange means the exchange listing for 30-60% large. Higher side of the stock exchange means the exchange listing for 60% or more large. Large means the size for large used by the stock exchange. If the purchase is based on the large size of the stock exchange and the large size of the batch, the exchange listing that corresponds with the size of the delivered batch applies. If the delivered batch is between 30-60% large, the price is the average of the 30-60% listing. If the delivered lot is 60% or more large, the price is the average of the >60% listing.

13.4 If the Contract stipulates that the purchase price is (in part) determined by an exchange listing and that exchange listing does not take place in the week of delivery or at another time stipulated in the Contract, the "sack price" shall take the place of the exchange listing, i.e. the proceeds minus all costs and margin made by MSP Onions, as set out in article 13.2.

13.5 Day/market price. If MSP Onions purchases Products at 'day price' or 'market price' or words with a similar intent, unless the Contract states otherwise, the purchase price is the same as the price which MSP Onions agrees with other sellers minus a margin to be determined by MSP Onions.

13.6 Prices are exclusive of VAT but inclusive of proper packaging material, if applicable, and any other costs of the Seller with regard to the performance of his obligations, unless otherwise agreed in Writing.

13.7 At a tare percentage above 10% tare there is a discount of €0.25/100 kg per % tare, above 13% tare there is a discount of €0.50/100kg per % tare.

14. Invoicing

14.1 MSP Onions shall at all times see to invoicing with regard to the Products purchased by it. The Seller shall not provide any invoices to MSP Onions.

14.2 The Seller states that he shall accept the purchase invoices prepared by MSP Onions. The Seller's right to object to the purchase invoices shall lapse within 48 hours after receipt thereof.

15. Payment

15.1 MSP Onions shall pay for the delivered Products or services within thirty (30) days after delivery/invoice date, unless otherwise agreed in Writing and on condition that the delivered Products are approved and after receipt of all related documentation including the correctly addressed fully itemised invoice. In the event MSP Onions exceeds this payment term it shall owe interest for late payment of 2% per year, but it is not bound to pay further compensation (including but not limited to debt collection costs).

15.2 Payment by MSP Onions does not encompass waiver of any right under the heading of the Contract, the General Terms and Conditions, or the law. Even if the Products are approved, payment shall not be deemed acknowledgement by MSP Onions of the good quality of the delivered Products and shall not release the Seller from any liability in this respect.

15.3 If whole or partial advance payment is agreed, MSP Onions is entitled to demand of the Seller that the Seller give adequate security for the performance of his delivery obligations or his repayment obligations in case of cancellation of the order or termination of the Contract.

15.4 If the Seller does not give adequate security within the period specified by MSP Onions, MSP Onions is entitled to terminate the Contract and to recover its loss from the Seller. Adequate security shall in any event be a due and payable bank guarantee in the amount of 100% of the advanced amounts. The Seller bears the costs for the giving of the security.

15.5 Every payment by MSP Onions is deemed payment for the debt specified for that payment by MSP Onions.

15.6 Payment releases MSP Onions from all obligations under the heading of the Contract in question and the Seller cannot deem such payment as payment for any other alleged claim of the Seller on MSP Onions.

15.7 MSP Onions at all times has the right to set off what it owes the Seller and natural persons or legal entities affiliated with the Seller against the claims that MSP Onions has on the Seller and on natural persons or legal entities affiliated with the Seller.

16. Liability

16.1 Any shortcoming in the performance of the Seller's obligations under the heading of the Contract, including the General Terms and Conditions, gives MSP Onions the right to oblige the Seller to immediately reverse the shortcoming and the consequences thereof in whole or in part at the Seller's expense and risk.

16.2 The Seller is fully liable for all damage suffered by MSP Onions and any users, including – ultimately – the consumer of the delivered (processed or otherwise) goods as a result of a shortcoming of the Seller in the performance of his obligations under the heading of the Contract, including the General Terms and Conditions, and as a result of any act or omission of the Seller or of the Seller's personnel or third parties engaged by the Seller. The Seller is fully liable for both direct and indirect damage.



16.3 The Seller indemnifies MSP Onions against all possible claims of third parties in connection with the Contract.

16.4 MSP Onions is not liable for any damage suffered on the part of the Seller, unless the damage has been caused by – proven by the Seller according to objective measures – intent or wilful misconduct of MSP Onions' staff who are charged with the management. All claims of the Seller on MSP Onions shall lapse one (1) year after said claims of the Seller have arisen.

16.5 The Seller shall take out adequate insurance against the damage referred to in articles 16.2 and 18. This insurance obligation also applies to all resources (including transport) which are used in the performance of the Contract in any way. MSP Onions reserves the right to demand proof of such insurance, or to demand that the policy state that insurance payouts be made directly to MSP Onions if MSP Onions is in the first instance bound to compensate the damage.

17. Force majeure

17.1 Unless otherwise stipulated below, force majeure of MSP Onions means any exceptional circumstance which makes the performance of its obligation to take the goods impossible or so onerous, that performance cannot be reasonably demanded, such as war, mobilisation, pandemic, strike, labour unrest, revolution, riot, affrays, storm, ice conditions, flooding, power or water outages, company fire, business standstill due to breakdown of machinery or difficulties in the power supply, traffic obstructions, etc. This expressly includes consequences of terror threats/attacks and associated restrictions imposed by the competent authority on business operations and transport. Force majeure of MSP Onions' clients is deemed force majeure of MSP Onions.

17.2 If the force majeure situation of the Seller lasts longer than fourteen (14) days, MSP Onions has the right to terminate the Contract with immediate effect and without judicial intervention by Written notice, without the right to compensation arising. Force majeure on the part of the Seller in any event does not mean: lack of personnel, strikes, default of third parties engaged by the Seller, transport problems on the part of the Seller or third parties engaged by the Seller, equipment malfunctions, liquidity or solvency problems on the part of the Seller or government measures affecting the Seller.

18. Recall

18.1 In case of complaints the Parties shall consult with each other in order to take the measures which are necessary under the given circumstances. The measures to be taken can consist of ceasing the deliveries, blocking stocks of Products (including at clients of MSP Onions) or a recall. MSP Onions is entitled to decide whether and if so, what measures shall be taken and how the implementation thereof shall take place. Insofar as applicable when taking such a decision MSP Onions shall take account of the fact that it puts Products on the market and must therefore protect its reputation. The Seller shall provide all reasonable cooperation in the implementation of such measures. The Seller shall take out adequate insurance against the risk of recall and shall bear all costs of the measures, without prejudice to the obligations of the Seller which are laid down elsewhere in these General Terms and Conditions.

18.2 The Seller is obliged to keep all information relating to measures which can or will be taken pursuant to this article confidential. The non-performance of this obligation shall result in a penalty in the amount of €25,000.

19. Intellectual property rights

19.1 The Seller grants MSP Onions a non-exclusive, perpetual, irrevocable, worldwide and transferable right to use all intellectual property rights relating to the Products delivered by the Seller. This right of use also includes the rights to grant this right of use to (possible) clients or other third parties with whom MSP Onions maintains a relationship in the framework of running its business.

19.2 The Seller guarantees that the use (including resale) of the Products delivered by the Seller shall not infringe any intellectual property rights or other (property) rights of third parties.

19.3 The Seller indemnifies MSP Onions against any claims of third parties arising from any infringement of the rights referred to in article 19.2 and the Seller shall compensate MSP Onions for all damage arising therefrom.

19.4 Insofar as MSP Onions makes resources available to the Seller for which MSP Onions possesses the intellectual property rights, the Seller acknowledges that MSP Onions at all times is and remains the owner of these resources and that the Seller shall not acquire any intellectual property rights or title with regard to these resources. The Seller shall manage all resources referred to in this paragraph at his own expense and risk and keep them in good condition. The Seller shall not use

the resources for or have them used by third parties, unless the Seller is authorised to do so by MSP Onions in Writing.

19.5 If the Seller develops goods on behalf of MSP Onions in the framework of the Contract, any intellectual property rights arising from that development belong exclusively to MSP Onions. Any compensation therefore is deemed to be included in the agreed price of the Products. Insofar as necessary the Seller shall provide all cooperation for the establishing or transfer of such rights to MSP Onions.

III. PROVISIONS CONCERNING SALE

Subject to the Industry Conditions that have been declared to apply in article 2.2 above, the following provisions apply in Section III. *Provisions concerning sale*, in the event there is a Contract of Sale between MSP Onions and the Buyer.

20. Entering into of Contract

20.1 Unless expressly otherwise indicated, all quotes, offers and other information of MSP Onions, regardless of the form thereof, are without commitment (except for price changes) and only constitute an invitation to place an order.

20.2 The foregoing applies in particular to price specifications. Price specifications are without commitment and shall only be binding when MSP Onions has confirmed them in Writing.

20.3 A Contract shall only be entered into when MSP Onions has confirmed the order placed by the Buyer in Writing. MSP Onions cannot be bound by evident printing and writing errors.

20.4 Every implicit or explicit explanation or act of the Buyer that confirms a Contract constitutes unconditional acceptance by the Buyer of the applicability of these General Terms and Conditions.

20.5 If the Buyer has not objected to the content of the order confirmation in Writing within 24 hours after receipt of the order confirmation, to which these General Terms and Conditions apply, the order confirmation is deemed to correctly represent the Contract and the parties are bound thereby.

21. Delivery

21.1 Unless MSP Onions has expressly stated otherwise in Writing, all deliveries of Products shall be *Ex Works* storage facility of the Products in the Netherlands. The term *Ex Works* has the meaning as defined in the most recent version of the INCOTERMS, as published by the International Chamber of Commerce in Paris, France, at the time the Contract is entered into as referred to in article 20.

21.2 The place of delivery is the place of delivery specified in the Contract. I.e. in case of delivery *Ex Works* delivery is deemed to have been effected at MSP Onions' premises.

21.3 The delivery times are estimates and are not binding on MSP Onions. MSP Onions shall take account of the delivery times to the extent possible.

21.4 Exceeding the delivery times does not give the Buyer the right to compensation or (partial) cancellation/termination of the Contract.

21.5 MSP Onions has the right to deliver the Products in part shipments.

21.6 The method of shipment is at MSP Onions' discretion. Requests of the Buyer shall be taken into account as much as possible; any extra costs are at the Buyer's expense.

21.7 The Buyer is obliged to take receipt of the Products at the agreed place and time. If the Buyer does not take receipt of the Products (in time), the Buyer shall be in default without the need for further notice of default. In such case MSP Onions has the right to store the Products at the Buyer's expense and risk or to sell them to a third party. The Buyer shall in such case owe the purchase price increased by interest and costs by way of indemnification.

21.8 Any defects in the delivered Products or a part thereof do not give the Buyer the right to refuse all delivered Products.

22. Harvesting reservation

22.1 Delivery of the (agricultural) Products is effected subject to reservations regarding harvesting and storage. If as a result of a disappointing harvest or storage relating to the quantity and/or quality of the Products, fewer Products are available, including due to rejection by the competent bodies, than could reasonably be expected when entering into the Contract, MSP Onions has the right to reduce the quantities sold accordingly. By delivering this reduced quantity, MSP Onions shall be fully in compliance with its delivery obligations. MSP Onions is in such case not bound to deliver replacement

agricultural Products, nor is it liable for any damage whatsoever.

23. Quality

23.1 MSP Onions has no responsibility whatsoever for the Products with regard to compliance with other quality standards than those which have been expressly specified in the Contract with MSP Onions. The Buyer takes on all risks and liability in connection with all further handling, processing and use of the Products after the transfer of the risk relating to the Products in accordance with the delivery conditions laid down in the Contract, regardless of whether the Products have been handled, processed or used independently or in combination with other Products.

23.2 MSP Onions does not guarantee or assert that the Products are suitable for any processing purpose and/or use, of whatever nature, by the Buyer, unless MSP Onions has expressly stated such in Writing.

23.3 The Products to be delivered are subject to spoilage and the shelf life and quality after delivery is to a great extent dependent on the method of transport and/or storage, over which MSP Onions no longer has any influence after the delivery.

24. Inspection

24.1 Prior to delivery, the Buyer must weigh and inspect the Products himself or have the Products weighed and inspected by an expert at the Buyer's expense, including random dissection of the Products, measuring the size of the Products, the temperature thereof and residues of, among other things, pesticides, to determine whether in the Buyer's opinion they satisfy the agreed requirements and quality. In addition, the Buyer shall determine at his expense whether there are contaminants among the delivered Products and remove said contaminants.

25. Obligation to lodge complaint and expert assessment

25.1 The Buyer can only lodge a complaint about the quality, size and quantity of the delivered Products before the delivery of the Products or if the parties agree such in Writing – before the unloading of the products.

25.2 The Buyer shall have lost the right to lodge a complaint when the Products have been delivered, or – if the parties have agreed inspection prior to unloading in Writing – have been unloaded at the place specified by the Buyer.

25.3 A Buyer who refuses to take receipt of the Products on the basis of alleged non-conformity, is – with non-compliance subject to loss of rights – obliged to notify MSP Onions in Writing immediately and in any event within one (1) hour after refusal. If MSP Onions rejects the complaint or does not accept the complaint within one (1) hour by telefax or by e-mail, the Buyer shall – whereby non-compliance is subject to loss of his right to complain about the delivered Products or the Products offered for delivery – immediately, i.e. within 24 hours after lodging the complaint, – in MSP Onions' presence –, have an expert assessment carried out by an independent registered and/or certified expert. MSP Onions has the right to have a counter-expert assessment carried out. If it fails to do so, the expert assessment shall bind the parties. The outcome of this counter-expert assessment is binding on both the Buyer and MSP Onions. Subject to loss of the right to lodge a complaint about the quality, the Buyer is obliged to condition the Products properly. If the Buyer lodges a complaint too late and/or requests an expert assessment too late and/or the expert assessment or the counter-expert assessment does not demonstrate that the Products did not correspond with the Contract at the time of delivery, it shall be established between the Buyer and MSP Onions that the Products comply with the Contract.

25.4 If the (counter-)expert assessment shows that the Buyer's complaint is valid, the costs of the inspection shall be borne by the parties in equal half shares. MSP Onions is furthermore entitled to replace Products that have justifiably been refused, but it is not bound to do so, and MSP Onions shall owe no further compensation.

25.5 If the (counter-)expert assessment shows that the Buyer's complaint is invalid, the costs of the inspection, as well as all other costs of MSP Onions connected with the complaint, shall be reimbursed by the Buyer upon first request. In addition, MSP Onions is entitled, including when a part shipment is concerned, to cancel the Contract in its entirety insofar as it has not been performed, and to claim compensation.

25.6 Subject to the loss of the right to lodge a complaint about the quality, the Buyer is obliged to condition the Products properly.



25.7 MSP Onions is entitled to replace the Products that were validly rejected with other Products, but it is not bound to do so. In the latter case MSP Onions is entitled to deduct the rejected quantity from the total quantity sold.

25.8 If the Buyer wrongly refuses to take receipt of the Products offered for delivery, MSP Onions is entitled, even if only a part shipment is concerned, to cancel the entire Contract to the extent it has not been performed, and to demand compensation.

25.9 MSP Onions is to be compensated in full for the loss suffered and yet to be suffered by MSP Onions due to failure to take the Products or to take them in their entirety. This compensation is at least the difference between the price agreed with the Buyer and the day price at the time of non-performance, or – if that price is lower – the price of the sale of the Products that have not been taken, increased by the lost profit and other damage, including consequential loss.

25.10 The Buyer who fails in the performance of his obligations, owes compensation to MSP Onions due to the mere fact of the failure to take receipt or to take receipt in a timely manner.

26. Prices

26.1 MSP Onions' prices are exclusive of VAT and other taxes, charges or levies. The costs of packaging, transport, import and export duties, excise and other levies and taxes shall be paid by the Buyer, unless otherwise agreed in Writing. The Buyer indemnifies MSP Onions against these costs.

26.2 MSP Onions is entitled, as a result of changes in circumstances which are beyond its control, to alter the agreed prices/rates accordingly.

27. Payment

27.1 Payment of MSP Onions' invoices shall be effected within fourteen (14) days after the invoice date, unless otherwise indicated in Writing, in the agreed currency on a bank account to be designated by MSP Onions.

27.2 Payments must be made directly to MSP Onions; payments to representatives or agents shall never release the Buyer from his payment obligations.

27.3 All taxes, charges and other costs connected with payments shall be paid by the Buyer.

27.4 The place where payment is to be made is Nieuwdorp, the Netherlands.

27.5 Complaints about invoices must be lodged with MSP Onions in Writing, within eight (8) days after the invoice date. After that period, the Buyer is deemed to have agreed to the invoice.

28. Breach

28.1 In case of exceeding of the payment period, the Buyer shall be in default without the need for any further notice of default.

28.2 In the event of any reasonable grounds to doubt the solvency or creditworthiness of the Buyer, MSP Onions is entitled to demand advance payment, or security, for outstanding deliveries and immediate payment, or security, for all other claims arising from any other Contracts between MSP Onions and the Buyer.

28.3 All obligations of MSP Onions, including but not limited to obligations to deliver or ship ordered Products, shall be suspended as long as the Buyer is in default on the payment of any amount owed to MSP Onions.

28.4 In case of exceeding payment periods, the Buyer shall owe MSP Onions interest of 1% per month, whereby a part of a month is counted as a full month.

28.5 Lodging a complaint under the heading of defective quality or other complaints shall not suspend the payment obligation of the Buyer and other obligations of the Buyer, nor shall said obligations, regardless of whether the complaint will be honoured, be altered or set aside.

28.6 MSP Onions is furthermore entitled to present claims for compensation for late payment.

28.7 In the event of extrajudicial or judicial collection for late payment, the amount of the claim shall be increased by 10% administration costs calculated over the invoice amount, with a minimum of €500, exclusive of VAT, increased by the actual judicial and extrajudicial costs which are made by MSP Onions.

29. Set-off

29.1 The Buyer is not entitled to set off its claims on MSP Onions against any payments or other obligations that the Buyer owes MSP Onions. Nor is the Buyer in such cases entitled to suspend his obligations.

29.2 MSP Onions and all undertakings affiliated with it are at all times entitled to set off their claims on the Buyer against any payments and/or obligations which are owed to the Buyer and/or undertakings and/or persons affiliated with the Buyer.

29.3 The Buyer is not entitled to exercise any pledge and/or similar rights to goods, documents with a monetary value and/or other Products or monies which the Buyer must provide to MSP Onions.

30. Retention of title

30.1 All Products delivered for the performance of this Contract remain MSP Onions' property until the purchase price and all related costs have been paid in full and MSP Onions has no further claim on the Buyer under another heading, including future claims on the Buyer, including interest and costs (and in case delivery is based on payment by bank transfer, until the time of settlement of the amount to be charged to the Buyer's account).

30.2 In case of late payment, moratorium on payment or bankruptcy, MSP Onions has the right to take possession of the Products and toward this end to enter the sites and buildings of the Buyer. By entering into the Contract the Buyer authorises MSP Onions to do so.

31. Retention of title Germany

31.1 With regard to a Buyer based in Germany, instead of the retention of title laid down in article 31, the retention of title laid down in this article shall apply.

31.2 *Das Eigentum an den gelieferten Waren bleibt zur Sicherung aller Ansprüche vorbehalten, die MSP Onions aus der gegenwärtigen und künftigen Geschäftsverbindung bis zum Ausgleich aller Salden gegen den Abnehmer und seine Konzerngesellschaften zusteht.*

31.3 *Das Eigentum von MSP Onions erstreckt sich auf die durch Verarbeitung der Vorbehaltsware entstehende neue Sache. Der Abnehmer stellt die neue Sache unter Ausschluss des eigenen Eigentums erwerbs für MSP Onions her und verwahrt sie für MSP Onions. Hieraus erwachsen ihm keine Ansprüche gegen MSP Onions.*

31.4 *Bei einer Verarbeitung die Vorbehaltsware von MSP Onions mit Waren anderer Lieferanten, deren Eigentumsrechte sich ebenfalls an der neuen Sache fortsetzen, erwerbt MSP Onions zusammen mit diesen Lieferanten – unter Ausschluss eines Miteigentums erwerbs des Abnehmers - Miteigentum an der neuen Sache, wobei der Miteigentumsanteil von MSP Onions dem Verhältnis des Rechnungswertes der Vorbehaltsware von MSP Onions zu dem Gesamtrechnungswert aller mitverarbeiteten Vorbehaltswaren entspricht.*

31.5 *Der Abnehmer tritt bereits jetzt seine Forderungen aus der Veräußerung von Vorbehaltsware aus den gegenwärtigen und künftigen Warenlieferungen mit sämtlichen Nebenrechten im Umfang des Eigentumsanteils zur Sicherung an MSP Onions ab.*

31.6 *Bei Verarbeitung im Rahmen eines Werksvertrages wird die Werklohnforderung in Höhe des anteiligen Betrages der Rechnung von MSP Onions für die mitverarbeitete Vorbehaltsware schon jetzt an MSP Onions abgetreten. Solange der Abnehmer seinen Verpflichtungen aus der Geschäftsverbindung an MSP Onions ordnungsgemäß nachkommt, darf er über die MSP Onions gehörenden Ware im ordentlichen Geschäftsgang zu verfügen und die an MSP Onions abgetretenen Forderungen selbst einziehen.*

31.7 *Bei Zahlungsverzug oder begründeten Zweifeln an der Zahlungsfähigkeit oder Kreditwürdigkeit des Abnehmers sind wir berechtigt, die abgetretenen Forderungen einzuziehen und die Vorbehaltsware zurückzunehmen.*

31.8 *Scheck-/Wechselzahlungen gelten erst nach Einlösung der Wechsel durch den Abnehmer als Erfüllung.*

31.9 *Hinsichtlich der Vereinbarung von Eigentumsvorbehaltsrechten gilt ausschließlich deutsches Recht.*

32. Security

32.1 By entering into the Contract, a (future) pledge is granted on the crops in the field and crops to be harvested/that have been harvested that the Buyer cultivates and/or purchases after entering into the aforementioned Contract as

security for payment of everything the Buyer owes and/or will owe MSP Onions, including the purchase price and commercial interest for monetary loans and credit facilities provided or to be provided for delivered Products, compensation for (future) (imputable) shortcomings, e.g. due to non-delivery or incomplete delivery by the Buyer. By entering into the Contract with MSP Onions, the Buyer states that he is authorised to grant a pledge on the Products referred to in the preceding sentence and that no limited rights are attached thereto.

33. Security Germany

33.1 With regard to a Buyer based in Germany, instead of the security laid down in article 33, the security laid down in this article shall apply.

33.2 *Der Abnehmer wird darauf hingewiesen, dass MSP Onions nach dem Gesetz zur Sicherung der Düngemittel- und Saatgutversorgung vom 19.1.1949 (DüngMSaatG) wegen aller Ansprüche aus der Lieferung von Düngemitteln und anerkanntem Saatgut oder zugelassenem Handelssaatgut ein gesetzliches Früchtepfandrecht an den in der Ernte anfallenden Früchten zusteht.*

33.3 *Der Abnehmer räumt MSP Onions wegen aller Ansprüche aus dem Verkauf von Saat- und Pflanzgut, insbesondere Pflanzkartoffeln, hiermit vertraglich ein Pfandrecht im Umfang des gesetzlichen Früchtepfandrechtes entsprechend dem DüngMSaatG an den in der Ernte anfallenden Früchten auf den zu bezeichnenden Grundstücken, auch wenn die Früchte noch nicht vom Grundstück getrennt worden sind. Das Pfandrecht erstreckt sich nicht auf die der Pfändung nicht unterworfenen Früchte.*

33.4 *MSP Onions behält sich wegen aller Ansprüche aus dem Verkauf von Saat- und Pflanzgut, insbesondere Pflanzkartoffeln, das Eigentum an das Saat- und Pflanzgut vor und der Abnehmer tritt bereits jetzt alle ihm zustehenden Fruchtziehungsrechte auf die Ernterzeugnisse auf den zu bezeichnenden Grundstücken, nebst allen insoweit bestehenden Nebenrechten, insbesondere auch Ansprüche aus Versicherungsverträge, an MSP Onions ab und überträgt bereits heute, so weit zulässig, seine (zukünftige) Eigentumsrechte, nebst Anwartsrechte hierauf auf MSP Onions.*

33.5 *Der Abnehmer ist dazu verpflichtet um seine Anmeldung zur Pflanzkartoffel-Vermehrung bei der zuständigen Anerkennungsstelle gleichzeitig MSP Onions schriftlich zu melden, damit pro Lieferung die einzelnen bepflanzten Grundstücke mit genauer Angabe der Lage und Grundstückgröße festgelegt werden.*

33.6 *Die Gegenseite erklärt, dass sie zur Übertragung der genannten Sicherheiten berechtigt ist und diese Sicherheiten frei von Rechten Dritter sind.*

33.7 *Ansprüche von MSP Onions umfassen Ansprüche aller zur MSP Onions gehörende Unternehmen aus dem Vertrag, insbesondere für die Kaufsumme, Zinsen, aus Darlehen und für Schadensersatz für zum Beispiel nicht- oder nicht vollständige Lieferung oder Lieferung mangelhafter und/oder nicht vertragsgemäßer Produkten.*

33.8 *Auf Verlangen des Abnehmers werden die MSP Onions zustehenden Sicherheiten freigegeben, soweit ihr Wert die zu sichernden Forderungen um mehr als 20 % übersteigt.*

33.9 *Hinsichtlich die MSP Onions zustehenden Sicherheiten gilt ausschließlich deutsches Recht.*

34. Liability

34.1 MSP Onions is never liable for damage suffered by third parties (not being the Buyer or his employees) connected with the Products delivered by MSP Onions, the use or otherwise. The Buyer shall indemnify, defend and protect MSP Onions and the undertakings affiliated with it, as well as their respective officers, directors, employees, shareholders, agents and authorised contractors against such claims and/or demands, damage, loss, liability, costs and expenditure.

34.2 Under no circumstance shall MSP Onions be liable to the Buyer or any other person for special, additional or consequential loss or punitive damages, costs or expenditure including but not limited to damage or loss in the form of loss of goodwill, loss of revenue, loss of profit, work interruption, disruption of the production, non-specified fixed claims, sanctions, penalties, damage to other Products or otherwise, regardless of whether the loss or the damage in question arises from or is connected with a breach of a guarantee, shortcoming, inaccurate representation of affairs, negligence or otherwise.

34.3 MSP Onions' liability per incident or series of related incidents, insofar as these are the result of one and the same cause, shall at all times, regardless of the basis of the claim (be such contract, negligence, wrongful act or otherwise), be limited to the net invoice amount of the relevant delivery up to



a maximum of €5000 or the equivalent thereof in another currency as of the date of payment.

34.4 MSP Onions shall only not be able to invoke the above-mentioned liability exclusions and limitations in the case of – to be demonstrated by the Buyer according to objective measures – intent or wilful misconduct of the officers charged with the management of the company.

34.5 Every right of claim with regard to MSP Onions shall lapse after one year to be counted as of the time that said claim arose.

34.6 The Buyer must provide complete and correct information, in particular with regard to the collection of VAT in connection with intra-community transactions. In the event of non-performance by the Buyer, the Buyer shall indemnify, defend and protect MSP Onions against all claims in this respect and shall waive the right to file a claim or complaint against MSP Onions in this respect.

35. **Force majeure**

35.1 In the case of force majeure MSP Onions is entitled to suspend the performance of the Contracts for the duration of the force majeure. If the duration or the seriousness of the force majeure necessitates such – which is exclusively at MSP Onions' discretion – MSP Onions is entitled to deem the Contracts as cancelled to the extent they have not yet been performed. In any event, MSP Onions can cancel the Contracts without being bound to pay any compensation.

35.2 Unless otherwise stipulated below, force majeure means any exceptional circumstance which makes the performance of the obligations impossible or so onerous, that performance cannot be reasonably demanded of MSP Onions, such as war, mobilisation, pandemic, strike, labour unrest, revolution, riot, affrays, storm, ice conditions, flooding, power or water outages, company fire, defects in the cooling, business standstill due to breakdown of machinery or difficulties in the power supply, traffic obstructions (including but not limited to hindrance as a result of Brexit), whole or partial crop failure, abnormal drought or continuing rain, diseases in the crop, vermin plagues, default of suppliers, etc. Force majeure of MSP Onions' suppliers, including installers and growers, and its clients is deemed force majeure of MSP Onions.

35.3 Government measures which impede import, throughput or export of sold or purchased Products or make them financially disadvantageous, give MSP Onions the right to cancel the Contract, to the extent it has not yet been performed, without it owing any compensation.

35.4 Force majeure of MSP Onions' suppliers, including growers, is deemed force majeure of MSP Onions.

36. **Intellectual property rights**

36.1 The intellectual and/or industrial property rights relating to the products delivered by MSP Onions shall (continue to) be held by MSP Onions, unless the parties expressly agree otherwise in Writing.

36.2 The Buyer may only sow and plant the sowing seed and seedlings within his own agricultural business in the country where MSP Onions delivered said products and only for consumption purposes (i.e. not for reproduction purposes). Resale and redelivery is not permitted.

37. **Breeders' rights**

37.1 By purchasing sowing seeds from MSP Onions, the Buyer grants MSP Onions, the holder of the breeders' rights and inspection agencies, the right to inspect and test all plots on which said seeds have been sown/planted, and to inspect and test the storage location. Upon first request the Buyer shall designate the relevant storage place and plots and hand over relevant records, including invoices, to MSP Onions.

37.2 If MSP Onions becomes involved in proceedings on breeders' rights or other intellectual and/or industrial rights, the Buyer is obliged to provide all cooperation desired by MSP Onions, including the gathering of evidence. In addition, the Buyer shall indemnify MSP Onions in said proceedings.