

## **KERNFARM B.V. GENERAL TERMS AND CONDITIONS**

General conditions of sale of Kernfarm B.V., situated in Breukelen (Dutch Chamber of Commerce no. 61111589), hereinafter referred to as "Kernfarm".

### **1 APPLICABILITY**

- 1.1 These general terms and conditions apply to all Kernfarm offers, engagements and agreements. Any deviations from these general terms and conditions will apply only if these have been accepted by Kernfarm in writing. Applicability of any general terms and conditions used by Kernfarm's contracting party (this other party is hereinafter referred to as "Buyer") is explicitly rejected.
- 1.2 Kernfarm reserves the right to make amendments and/or additions to these terms and conditions.

### **2 OFFERS AND AGREEMENTS**

- 2.1 An offer by Kernfarm is without obligation and Kernfarm may revoke, cancel or amend it within 5 working days after acceptance by the Buyer. Kernfarm is not bound by any mistakes or omissions in offers, any instructions or advice provided by Kernfarm with regard to offers and any general information not exclusively aimed at the Buyer.
- 2.2 An agreement between Kernfarm and the Buyer is formed by the Buyer's unconditional acceptance of a Kernfarm offer or by the performance of the Buyer's agreement by Kernfarm. Only Kernfarm's offer or Kernfarm's invoice is deemed to reflect the contents of the agreement correctly. Section 225 par. 2 of Book 6 of the Dutch Civil Code does not apply. Any amendments and/or additions to the agreement are only valid after those amendments and/or additions have been agreed in writing by Kernfarm and the Buyer. In writing includes email and other types of electronic communication.
- 2.3 If no offer has been issued by Kernfarm, an agreement is only formed by written acceptance or the performance of the Buyer's engagement/purchase order by Kernfarm.
- 2.4 Kernfarm is authorised to adjust the agreed sales prices in the event of price increases as a result of circumstances beyond Kernfarm's control. In the event of such a price adjustment the Buyer is authorised to terminate the agreement within 5 working days after receipt of Kernfarm's

notification of the price adjustment, after which period the adjusted price is deemed to be accepted by the Buyer.

- 2.5 The Buyer does not have the right to rescind the agreement unless that right has been agreed in writing or the Buyer is authorised to do so on the basis of mandatory law. A justified rescission obliges the Buyer to return any items or rights provided by Kernfarm, to cancel any rights granted on the basis of the agreement and to reimburse Kernfarm for any costs made in connection with the offer, the formation and performance of the agreement and to reimburse Kernfarm for any loss or damage it suffers as a result of the termination.
- 2.6 Kernfarm is entitled to unilaterally terminate the agreement fully or partly with immediate effect and/or suspend performance of any obligations arising from the agreement fully or partly with immediate effect if one or more of the following events occur:
- (a) a breach attributable to the Buyer of one or more obligations arising from the agreement;
  - (b) submission of a request to grant the Buyer permanent or provisional suspension of payments;
  - (c) submission of a petition to grant a liquidation order against the Buyer;
  - (d) the Buyer's inability to manage his affairs;
  - (e) the Buyer having no power of disposal;
  - (f) enforceable attachment at Kernfarm against the Buyer;
  - (g) formation of a decision relating to dissolution and/or liquidation of the Buyer;
  - (h) transfer of one or more shares in the Buyer to parties other than the shareholder or shareholders at the time the agreement with Kernfarm was formed;
  - (i) full or partial transfer of the business operated by the Buyer to one or more other parties;
  - (j) a credit insurer of Kernfarm issuing a negative rating on the Buyer's creditworthiness. This provision does not in any way oblige Kernfarm to take out actual credit insurance. Nor does this provision affect any of the Buyer's obligations under article 3.3 of these General Terms and Conditions.
- 2.7 The Buyer is obliged to inform Kernfarm immediately should any events referred to in this article occur.

- 2.8 Kernfarm does not have to pay any compensation to the Buyer as a result of the termination of the agreement or the suspension of any obligations arising from the agreement on the basis of any of the events referred to in article 2.7.

### **3 PRICE AND PAYMENT**

- 3.1 Any stated prices are in euros and pounds and only relate to the goods to be delivered and do not include any additional services, unless agreed otherwise. Payments to Kernfarm must be made in euros, unless agreed otherwise. Unless agreed otherwise the payment deadline is 14 days after the invoice date. The agreed payment deadline is final, on expiry of which the Buyer is in default without a separate notice of default being required.

If, even after an initial payment reminder, the Buyer fails to pay the amounts owed, the Buyer must pay the amount of actual costs of legal assistance incurred by Kernfarm in or out of court (including any legal costs not assessed) and court fees to Kernfarm.

- 3.2 The Buyer is not entitled to suspend payment obligations and/or set off payment obligations against any obligations that it believes Kernfarm has towards the Buyer.
- 3.3 Immediately on Kernfarm's request, the Buyer is obliged to provide and maintain insurance cover for adequate security for payment of amounts due to Kernfarm as a result of the agreement. If, in spite of such a request, the Buyer does not have and/or maintain sufficient insurance cover for payment of amounts due to Kernfarm, Kernfarm will have the right to fully suspend its obligations towards the Buyer.
- 3.4 Kernfarm has the right to set off any of the Buyer's debts, whether not due and payable, against obligations Kernfarm has towards the Buyer.

### **4 DELIVERY AND DELIVERY TIMES**

- 4.1 Any delivery times stated by Kernfarm are target delivery times. Delivery times form no essential part of the agreement. Any stated delivery times will be observed by Kernfarm as much as possible. Kernfarm will not be in default due to expiry of any stated delivery time. Any part deliveries are regarded as independent deliveries.
- 4.2 The agreed items are deemed to be delivered as soon as these have been transferred to the Buyer after transport by Kernfarm or any dedicated/contracted third party or placed under the Buyer's control.

- 4.3 Delivery is only effected at a location easily accessible from the public road. For delivery addresses not easily accessible Kernfarm reserves the right to deliver items at a different location that is easily accessible and/or to charge extra costs for delivery at the location that is not easily accessible.

## **5 RETENTION OF TITLE AND RIGHTS**

- 5.1 The ownership of all items delivered by Kernfarm will only transfer to the Buyer if and after the Buyer has paid the full amounts that he owes to Kernfarm by virtue of any agreement.
- 5.2 As long as the Buyer has not fully complied with his obligations towards Kernfarm, the Buyer is not entitled to any of the delivered items and it is therefore not possible for the Buyer to encumber these or establish any restricted rights to these. Applicability of these General Terms and Conditions implies that authority for this does not exist. However, the Buyer is authorised to use the items delivered by Kernfarm and/or supply these to third parties in the course of his normal business activities.
- 5.3 Despite the fact that title is retained as stipulated in the first paragraph of this article, the risk attached to owning the items is transferred to the Buyer at the time the items were received in his possession. From that moment the Buyer is obliged to comply and continue to comply with all the requirements prescribed by law in connection with holding, storing, processing and selling the items. From that same time such obligations no longer lie with Kernfarm.
- 5.4 If the manufacturer of any items delivered to the Buyer by Kernfarm initiates a product recall, the Buyer is, immediately on Kernfarm's request, obliged to supply all information with regard to the delivered items, such as current storage location, sale date, delivery date, name and address of the Buyer's customer, name and address of the transporter, numbers of any applicable licences of the relevant Buyer's customers, etc. If the Buyer is not or not fully able to supply Kernfarm with this information, the Buyer is liable to Kernfarm for any loss or damage Kernfarm suffers as a result.
- 5.5 The Buyer is obliged to obtain and maintain, at his own expense, insurance cover with a reputable insurance company situated in the Netherlands on items that are subject to retention of title, to give Kernfarm immediate access to those items, if requested, and immediately inform Kernfarm in writing of any action by third parties which affects/may affect the items delivered by Kernfarm in a manner that is detrimental to Kernfarm.

## **6 LIABILITY AND COMPENSATION**

- 6.1 With the exception of any case of intent or gross negligence, Kernfarm's liability for any loss or damage as a result of breach of contract and/or acting unlawfully is excluded. In any case Kernfarm's liability is limited to direct loss or damage to a maximum amount that is equal to the agreed price, exclusive of VAT, in so far as the agreed price has been paid to Kernfarm by the Buyer. Kernfarm is not in any way obliged to compensate immaterial damage, loss or damage by force majeure and/or indirect loss or damage, such as consequential loss or damage, loss of profits, business interruption loss, loss or damage due to time lost, loss of data and/or missing out on a financial advantage. Kernfarm is not liable for items of which the primary packaging has been changed without Kernfarm's prior permission.
- 6.2 The Buyer is obliged to agree with the party to whom he supplies the items purchased from Kernfarm that the liability of the Buyer and Kernfarm is limited as stipulated in the first paragraph of this article. Any failure by the Buyer to stipulate such a limitation of liability in favour of Kernfarm causes the Buyer to be liable for any loss or damage Kernfarm suffers as a result.
- 6.3 The Buyer will indemnify Kernfarm against any claims by third parties arising from and/or in connection with, by virtue of and/or with regard to the agreement concerning items delivered and/or services provided by Kernfarm. The Buyer will also indemnify Kernfarm against any consequences of the use of specifications originating from and/or prescribed by the Buyer.
- 6.4 In connection with the items to be delivered the Buyer will strictly observe any national or international restrictions on export, import and use prescribed by the government. He will compensate Kernfarm for any loss or damage Kernfarm incurs by any breach of these restrictions.

## **7 GENERAL**

- 7.1 Offers from and agreements with Kernfarm are exclusively governed by Dutch law. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 does not apply to any Kernfarm offers or agreements.
- 7.2 The competent subject-matter courts in the Noord-Holland district in the Netherlands have jurisdiction and exclusive competence to hear any disputes directly or indirectly arising from the agreement.