

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

MISS BERRY B.V.

Located in Noordhoek

Chamber of commerce no. 81160119

1. Definitions

- 1.1. For the purpose of these terms and conditions, 'Miss Berry' shall mean the private limited liability company Miss Berry B.V., having its registered office in Noordhoek;
- 1.2. For the purpose of these terms and conditions, 'Buyer' shall mean the Person with whom Miss Berry has concluded an Agreement or with whom Miss Berry is negotiating in this regard;
- 1.3. For the purpose of these terms and conditions, 'Parties' shall mean: Miss Berry and Buyer;
- 1.4. For the purpose of these terms and conditions, 'Agreement' shall mean any agreement between the Parties, irrespective of whether it is a framework or individual agreement, as well as all actual and legal acts in preparation and execution of this agreement, including offers made by Miss Berry;
- 1.5. For the purpose of these terms and conditions, 'Products' shall mean all items and/or services and/or other performance that are the subject of an Agreement;
- 1.6. For the purpose of these terms and conditions, 'Person' shall mean any natural or legal person or unincorporated company, such as a general partnership.
- 1.7. For the purpose of these terms and conditions, 'in writing' includes e-mail and What's App.

2. General

- 2.1. These terms and conditions - with the explicit exclusion of all other general terms and conditions - apply to all Agreements. If Miss Berry does not require strict observance of these terms and conditions in an appropriate case, this does not mean that Miss Berry would lose the right to require strict observance of these terms and conditions in future cases, similar or otherwise. Stipulations which deviate from these terms and conditions are only binding if agreed in writing and only apply to the case in question.
- 2.2. All clauses in these terms and conditions are made not only for the benefit of Miss Berry, but also for the benefit of the following Persons, who may invoke this third-party clause at any time: (i) the directors and shareholders of Miss Berry (including its indirect directors and shareholders), (ii) all Persons working for Miss Berry, (iii) all Persons engaged by Miss Berry in the performance of an Agreement, and (iv) all Persons for whose acts or omissions Miss Berry might be liable.
- 2.3. If one or more provisions of these terms and conditions and/or an Agreement prove to be void or are annulled by the court, the remaining provisions of these terms and conditions and the Agreement shall retain their legal force. The void or nullified provisions will be replaced by valid provisions which, in view of the purpose and purport of these terms and conditions and the Agreement, deviate as little as possible from the original provisions.

- 2.4. These terms and conditions are drawn up in different languages. If there is any difference of opinion on the content or scope of these terms and conditions, the Dutch text will be binding.

3. Offers; Agreements

- 3.1. All information and specifications provided with offers by Miss Berry are always approximate. Deviations of up to 10% are allowed without objection.
- 3.2. Quotations and offers are valid as one whole; a compound offer or quotation cannot be accepted in part.
- 3.3. All offers by Miss Berry are entirely without obligation. Miss Berry has the right to revoke its offer until no later than 3 working days after receipt of its acceptance by the Buyer.
- 3.4. An acceptance by the Buyer which, whether or not on minor points, deviates from Miss Berry's offer, shall always be deemed a rejection of this offer and a new offer by the Buyer. An Agreement will only be concluded in accordance with this new offer after written acceptance thereof by Miss Berry.
- 3.5. An Agreement comes into effect at the moment that:
- a. 3 working days have passed after Miss Berry has received the Buyer's acceptance and Miss Berry has not revoked its offer during this period; or
 - b. Miss Berry confirms the Agreement in writing; or
 - c. Miss Berry commences implementation of the Agreement.
- 3.6. Miss Berry is not bound to honour an offer and/or an Agreement at a stated price if this price is based on a printing and/or writing error.
- 3.7. All Agreements for the delivery of agricultural Products by Miss Berry are subject to harvest reservation. If, due to a disappointing harvest in terms of quantity and/or quality of agricultural Products, or due to the rejection of Products by the competent authorities, fewer Products are available than could reasonably have been expected at the time of concluding the Agreement, Miss Berry has the right to reduce the quantities sold accordingly. By delivering the reduced quantities, Miss Berry fully complies with its delivery obligation. In such a case, Miss Berry is not obliged to supply replacement agricultural Products, nor is it liable for any damages whatsoever.
- 3.8. The Buyer is not allowed to transfer an Agreement or one or more of its rights and/or obligations under an Agreement without Miss Berry's prior written consent. This prohibition has effect not only under law of obligations but also under law of property (as referred to in Article 3:83(2) of the Dutch Civil Code).

4. Prices

- 4.1. Unless the Parties have agreed otherwise in writing, prices are shown in euros.
- 4.2. The prices are exclusive of VAT and other taxes and levies imposed by the government, as well as exclusive of transport and packaging costs (crates).
- 4.3. Prices are based on cost-determining factors at the time the Agreement was concluded. If these factors change after the Agreement has been concluded but before delivery of the Products and Miss Berry cannot reasonably influence this, Miss Berry will be entitled to pass on the resulting costs to the Buyer.

5. Conformity, delivery time, delivery and risk

- 5.1. The conformity of the Products shall be assessed on the basis of the laws and regulations in force in the Netherlands at the time of delivery. Unless the Parties have

agreed otherwise in writing, Miss Berry is not obliged to observe any other laws and regulations.

- 5.2. The delivery times quoted by Miss Berry are always approximate and should never be regarded as deadlines.
- 5.3. Products sold by Miss Berry shall be delivered ex warehouse (Ex Works), unless the Parties have agreed otherwise in writing. 'Ex Works' will be interpreted in accordance with the latest version of the Incoterms.
- 5.4. If the Parties have agreed that Miss Berry will store Products for the Buyer, either at Miss Berry itself or at a third party, and these Products have not yet been delivered to the Buyer, the Products are deemed to have been delivered at the time they are stored. From that moment, the Buyer shall be subject to the obligation to inspect and complain as described in Article 6 of these terms and conditions, and the same Article 6 shall otherwise also apply in full. Miss Berry is not obliged to insure the Products for the duration of storage.
- 5.5. Miss Berry is entitled, but never obliged, to deliver the Products sold in parts and to invoice each part separately.
- 5.6. The Buyer is obliged to accept the purchased Products. The obligation to accept consists of: a) carrying out all actions that can reasonably be expected from the Buyer to enable Miss Berry to make the delivery, and b) taking possession of the Products. If acceptance does not take place within 6 hours after the Products have been made available to the Buyer, the Buyer is in default without further notice and, without prejudice to its other rights, Miss Berry is entitled to store the Products at the Buyer's expense and risk or to terminate the Agreement. Miss Berry is also entitled to recover from the Buyer any damages suffered or to be suffered as a result of such termination, including lost profits and consequential damages.

6. Inspection and complaints

- 6.1. Miss Berry delivers the Products under the purchase order (p.o.) number specified by the Buyer. However, a single p.o. number may include Products from multiple suppliers of Miss Berry. The Products delivered by Miss Berry are labelled per packaging unit, clearly indicating the supplier of Miss Berry. The obligations mentioned in this article apply to the packaging unit, not the p.o. number. Therefore, the Buyer is required to inspect the Products per packaging unit and does not have the right to reject an entire p.o. number if defects are present in only one packaging unit. The Buyer may only reject Products on a per-packaging-unit basis.
- 6.2. The Buyer is obliged to inspect the Products or have them inspected immediately on delivery - and therefore prior to transport - which in this article means that the Buyer must thoroughly and accurately examine, or have them examined, whether the Products comply with the Agreement in all respects, more specifically:
 - a. whether the correct Products have been delivered;
 - b. whether the Products delivered comply, both externally and internally, with the quality requirements that may be set for normal use and/or for commercial purposes; and
 - c. whether the Products delivered correspond, as regards their quantity (number, quantity, weight), with what the Parties have agreed in this respect.If the Buyer does not check the Products immediately on delivery, the Products shall be deemed to have been delivered fully and correctly.
- 6.3. For the purpose of examining the internal quality of the Products, the Buyer must cut through them (or have them cut through) at random and check (or have them checked) for the presence of contamination and other defects.

- 6.4. In case of under-delivery up to 10% of the total quantity, the Buyer will be obliged to accept the delivered goods in full at a proportional reduction of the price.
- 6.5. Complaints about the quantity delivered and about visible defects, including internal defects which were discovered or should reasonably have been discovered during the inspection referred to in paragraph 1 of this article, must, on penalty of forfeiting all rights, be reported to Miss Berry immediately after this inspection - and thus prior to transport - and then confirmed in writing within 24 hours, accurately stating the nature of the defects.
- 6.6. Complaints about any invisible defects must, at the risk of forfeiting all rights, be reported in writing to Miss Berry immediately after these defects have been discovered or should reasonably have been discovered, but at the latest within 24 hours of delivery and in any case prior to the (re)sale and delivery by the Buyer and/or further transport by or on behalf of the Buyer, accurately stating the nature of the defects.
- 6.7. Complaints regarding minor and/or usual and/or technically unavoidable deviations in quality, size, weight, colour, quantity and the like and complaints regarding processed or treated Products shall be inadmissible.
- 6.8. If Miss Berry does not accept a Buyer's complaint within 8 hours of receiving it, the Buyer shall, on pain of forfeiting all rights, be obliged to have an independent assessment by a sworn expert within 12 hours. Both deadlines mentioned in this paragraph shall commence at 7:00 am (Miss Berry's local time) on the next working day following the day on which the Buyer reported the complaint. The Buyer must give Miss Berry the opportunity to be present at the said expertise and/or to be represented or accompanied by its own expert. Miss Berry is also entitled to have a counter-expertise carried out.
- 6.9. The Buyer shall provide all cooperation necessary for the investigation of the complaint. If the Buyer does not cooperate or investigation is otherwise not or no longer possible, its complaint is inadmissible.
- 6.10. If the Buyer's complaint is well-founded, partly in view of the provisions in this article, Miss Berry will, after consultation with the Buyer but at its discretion, arrange for delivery of the missing Products, repair or replacement of the delivered Products or adjustment of the price. Miss Berry will have no other obligation or liability.
- 6.11. The Buyer is obliged to take care of the preservation of the Products as a prudent debtor at all times.
- 6.12. The Buyer is not free to return the Products before Miss Berry has given its written consent. If Miss Berry stores the returned Products despite the absence of consent, it will do so exclusively at the Buyer's expense and risk. No consent or acceptance of the return can ever be inferred from these measures.
- 6.13. Violation of the Buyer's obligation to inspect and complain will always result in the forfeiture of all rights, regardless of whether Miss Berry's concrete interests have been harmed by this violation.
- 6.14. If the Buyer breaches its obligation to inspect and complain and Miss Berry nevertheless takes up a complaint, this shall be done subject to all rights and Miss Berry's efforts should be regarded as goodwill without acceptance of any obligation or liability.
- 6.15. If a complaint is found to be unfounded, the internal and external costs incurred by Miss Berry in dealing with the complaint will be borne by the Buyer.
- 6.16. Any legal actions must be brought no later than 1 year after timely notification of a complaint under penalty of forfeiture of all rights.

7. Retention of title

- 7.1. Miss Berry reserves ownership of all delivered Products until the purchase price for these has been paid in full. The retention of title also applies to the other claims mentioned in Article 3:92 paragraph 2 of the Dutch Civil Code which Miss Berry has or will acquire against the Buyer.
- 7.2. As long as ownership of the Products has not been transferred to the Buyer, the Buyer is not permitted, without prior written consent from Miss Berry, to pledge the Products or grant any other rights over them to a third party. This prohibition has both contractual and proprietary effects (as referred to in Article 3:83(2) of the Dutch Civil Code in conjunction with Article 3:98 of the Dutch Civil Code). The Buyer is permitted to sell and transfer the Products delivered under retention of title to third parties in the ordinary course of business, provided that in the event of resale, the Buyer is obliged to stipulate a retention of title in accordance with the provisions of this article. Without prior written consent from Miss Berry, the Buyer is not permitted to assign, pledge, or otherwise transfer or encumber any claims it has or will acquire against its customers. This prohibition also has both contractual and proprietary effects (as referred to in Article 3:83(2) of the Dutch Civil Code, in conjunction with Article 3:98 of the Dutch Civil Code). The Buyer undertakes, at Miss Berry's first request, to pledge the claims against its customers to Miss Berry in the manner specified in Article 3:239 of the Dutch Civil Code as additional security for the fulfilment of its obligations towards Miss Berry, regardless of their nature.
- 7.3. If the Buyer fails to fulfil one or more obligations or if Miss Berry has reasonable grounds to fear that the Buyer will fail to do so, Miss Berry is entitled to reclaim the Products delivered under retention of title. The Buyer shall fully cooperate in this regard. The Buyer hereby waives any right of retention concerning the Products in advance and shall not impose any attachment on the Products. After repossession, the Buyer will be credited with the market value, which can never exceed the original purchase price, reduced by the costs of repossession and any other damages incurred by Miss Berry.
- 7.4. If the law of the country of destination of the purchased Products has more far-reaching possibilities for reserving ownership than those provided for in the previous paragraphs of this article, it shall apply between the Parties that these more far-reaching possibilities are deemed to have been stipulated for the benefit of Miss Berry, on the understanding that if it cannot be objectively determined which more far-reaching rules are involved, the provisions of the previous paragraphs of this article shall continue to apply.
- 7.5. If the Buyer is situated in Germany and/or the Products are intended for Germany, the following extended and extended retention of title under German law shall apply between the Parties, whereby Miss Berry BV shall be referred to as 'we' and the Buyer as "Buyer": "The ownership of the delivered goods remains reserved to secure all claims to which we are entitled from the current and future business relationship until all balances against the Buyer and its business relations have been settled. Our ownership extends to the new item created by processing the reserved goods. The Buyer manufactures the new item for us, excluding their own acquisition of ownership, and stores it for us. This does not give rise to any claims against us. In the case of processing our reserved goods with goods from other suppliers, whose property rights also continue in the new item, we acquire co-ownership of the new item together with these other suppliers—to the exclusion of any co-ownership acquisition by the Buyer—at its full value (including value added) as follows:

a) Our co-ownership share corresponds to the ratio of the invoice value of our reserved goods to the total invoice value of all processed reserved goods.

b) If a residual portion initially not covered by retention of title remains because other suppliers have not extended the retention of title to the added value created by the Buyer, our co-ownership share shall increase by this residual portion. However, if other suppliers have also extended their retention of title to this residual portion, we are only entitled to a share of it determined by the ratio of the invoice value of our reserved goods to the invoice values of the processed goods of these other suppliers.

The Buyer hereby assigns to us, as security, their claims from the sale of reserved goods from our current and future deliveries of goods with all ancillary rights to the extent of our ownership share. In the case of processing within the framework of a contract for work and services, the claim for payment for work performed in the amount of the proportionate amount of our invoice for the processed reserved goods is hereby assigned to us.

As long as the Buyer properly fulfills their obligations from the business relationship with us, they may dispose of the goods owned by us in the ordinary course of business and collect the claims assigned to us themselves. In the event of default in payment or justified doubts about the Buyer's ability to pay or creditworthiness, we are entitled to collect the assigned claims and take back the reserved goods; however, this only constitutes a withdrawal from the contract if we expressly declare this in writing. Cheque/bill of exchange payments are only deemed to be fulfilled after the bills of exchange have been redeemed by the Buyer. With regard to the agreement of retention of title rights, German law applies exclusively."

8. Payment

- 8.1. Payment of Miss Berry's invoices must be made within the period stated on the invoices. Payment must be made unconditionally, without suspension, discount or set-off, for whatever reason. The Buyer shall not have any seizure of its own.
- 8.2. The Buyer shall, without notice of default being required, be in default by the mere expiry of the term of payment. If the Buyer defaults on any payment, all Miss Berry's claims on the Buyer shall become immediately due and payable in full. During his default, the Buyer shall owe default interest on the outstanding claims of 1% per month or part of a month, unless the statutory commercial interest rate is higher than 12% per year, in which case the Buyer shall owe the statutory commercial interest.
- 8.3. All internal and external costs of Miss Berry related to the collection of invoices and/or the determination of damages and liability and/or the collection of compensation amounts, including but not limited to the actual costs of lawyers, bailiffs, experts and translators incurred by Miss Berry, shall be borne by the Buyer.
- 8.4. The extrajudicial collection costs payable by the Buyer shall amount to at least 15% on the first €5,000 (with a minimum of €250), 10% on the amount up to €10,000, 8% on the amount up to €20,000, 5% on the amount up to €60,000 and 3% on the amount above €60,000.
- 8.5. Payments made by or on behalf of the Buyer shall, irrespective of the order of allocation designated by the Buyer at the time of payment, first be applied to reduce costs (including but not limited to extrajudicial collection costs), then to reduce interest that has become due and finally to reduce the principal sum and current interest.
- 8.6. In response to a request to that effect from Miss Berry, which may be made both prior to and during the execution of the Agreement, the Buyer will make a full or partial prepayment or provide adequate security for the fulfilment of its obligations at its own

expense. Sufficient security is in any case understood to mean a bank guarantee payable on demand by Miss Berry, provided by a first-class Dutch bank, in the amount of 110% of the amounts owed by the Buyer (100% of these amounts with a 10% surcharge for interest).

- 8.7. Miss Berry shall at all times be entitled to set off the amounts it owes to the Buyer or any Person affiliated to it ('Buyer *et al.*') on whatever account against the amounts that Miss Berry or any Person affiliated to it ('Miss Berry *et al.*') owes to the Buyer *et al.* on whatever account. The authority to set off referred to herein also exists if the payment of the claims is not yet enforceable and if the performance that Miss Berry *et al.* owes does not.

9. Right of retention

- 9.1. Until the Buyer has fully complied with all its obligations towards Miss Berry for whatever reason, Miss Berry has a right of retention on all items that Miss Berry has or will have in its possession indirectly or immediately in connection with an Agreement. In this article, "goods" means: Products, moveable goods, bearer or order rights, securities, documents and funds.

10. Packaging

- 10.1. Packaging delivered via Miss Berry on which a deposit has been charged will be taken back at the return price applicable at the time of return, possibly reduced by a fixed packaging fee. This packaging must always be delivered to Miss Berry on Miss Berry's first request and meet the requirements set out in paragraph 2 below.
- 10.2. The packaging to be delivered and/or returned by the Buyer must be completely empty, not damaged in any way (not even by staples or stickers) and so clean and fresh that it is suitable for the packaging of fresh AGF products and provided with all necessary equipment to pack and transport the Products properly. If the packaging does not meet these requirements, Miss Berry is entitled not to accept the packaging and/or not to take back the packaging or, at the Buyer's expense, to arrange for packaging which meets the requirements of this article.
- 10.3. If Miss Berry takes back packaging via its own means of transport, the packaging must be sorted by type ready for transport.
- 10.4. Packaging not delivered via Miss Berry will not be taken back, unless the Parties have agreed otherwise in writing.

11. Cooling operations

- 11.1. If the Agreement relates to the provision by Miss Berry of cooling services in a cold storage and/or storage facility (in this article: "a cold store") for the benefit of the Buyer (in this article: the "depositor"), in addition to the other articles in these terms and conditions, the terms and conditions of this article 11 shall apply.
- 11.2. 'Storage' in this Article 11 shall mean one or more of the following operations, provided and to the extent that the storage is carried out by Miss Berry: (i) the storage of goods in a cold store; (ii) the keeping in storage of goods in a cold store; (iii) the storage, cooling or freezing of goods in a cold store; (iv) the other handling and/or processing of goods in a cold store, (iv) the removal of goods from a cold store.
- 11.3. The depositor shall see to it that the goods supplied, free of charge, are delivered to the cold store. Unless otherwise agreed, the goods shall be delivered to Miss Berry in good

condition and - if packed - in soundly packed condition and clearly marked. For any damage that is generally a consequence of poor or unsuitable packaging (cask), Miss Berry is not liable and Miss Berry is entitled to charge the depositor for the resulting costs.

- 11.4. Miss Berry shall issue a receipt to the depositor upon receipt of the goods. Barring proof to the contrary, this receipt is proof that the goods described thereon have been received by Miss Berry for storage and/or processing at the expense of the said depositor.
- 11.5. Miss Berry shall keep the goods carefully and with due diligence, the storage conditions being determined by Miss Berry to the best of its knowledge. All requests, orders, instructions, offers, requests and communications intended for Miss Berry, in particular the temperature at which the goods are to be kept, must always be made in writing to Miss Berry, whereupon Miss Berry will comply with such instructions to the best of its reasonable ability. Failure by the depositor to act in accordance with this article shall be for his account and risk.
- 11.6. Storage shall be considered to have ended as soon as the goods have been placed by Miss Berry's personnel in the depositor's vehicle or at another place of removal. If a certain time of delivery and/or collection of goods has been agreed between the depositor and Miss Berry, the depositor shall be liable for any consequences and resulting costs resulting from non-delivery and/or non-collection at said time.
- 11.7. Miss Berry shall be entitled to refuse, move or terminate the storage of goods which, in its opinion, because of their nature or condition, are not suitable for storage, or may cause danger or damage to other goods and/or to the cold store and/or the refrigeration installation and/or the employees, even if the storage of these goods has been agreed.
- 11.8. All storage shall take place at the expense and risk of the owner of the goods. The depositor shall adequately insure the goods given into custody.
- 11.9. Miss Berry shall never be liable for any damage to or loss of the deposited goods, unless the depositor proves that such damage or loss was caused by intent or gross negligence on Miss Berry's part. In any case Miss Berry's liability is limited as referred to in article 16.

12. Commission agreement

- 12.1. A Commission Agreement exists only when the Parties have entered into an express and written commission agreement.
- 12.2. In the case of a commission agreement, the following shall apply (where necessary in derogation from the preceding articles):
 - a. after making the Products available, the Buyer will immediately have them inspected by an independent expert;
 - b. upon receipt of the quality control report, the Buyer will immediately forward it to Miss Berry;
 - c. the Buyer will store the Products with due diligence;
 - d. the Buyer will allow Miss Berry at its first request to enter the premises where the Products are kept during normal working hours in order to inspect the Products;
 - e. the Buyer shall sell and supply the Products to third parties in its own name
 - f. without Miss Berry's prior written consent, the Buyer shall not (i) sell the Products to any Person affiliated with the Buyer and (ii) have the Products sold by any third party (whether or not affiliated to the Buyer);
 - g. the Buyer shall endeavour to maximise the sale proceeds;

- h. prior to selling the Products, the Buyer will consult with Miss Berry to determine the sale price; if it proves impossible to sell the Products at this price, the Parties will adjust the selling price by mutual agreement;
 - i. the Buyer will inform Miss Berry daily about the market situation and developments, the quantity of Products sold, the realised sales prices and the remaining stock of the Products;
 - j. in addition to the commission due to it, the Buyer will only charge Miss Berry for costs agreed in advance between the Parties and visible on the sales statements;
 - k. the Buyer will give Miss Berry the opportunity to check, or cause to be checked, the accuracy of the sales statements; at Miss Berry's first request, the Buyer will (i) provide Miss Berry with possession of all documents underlying the sales statements, including but not limited to the relevant batch cards, sales invoices and cost invoices, as well as all relevant payment vouchers and debtor cards and (ii) allow an auditor to be appointed by Miss Berry to audit the relevant part of the Buyer's records and the books, records and other data carriers pertaining thereto with the right to copy the relevant documents;
 - l. the Products remain Miss Berry's sole property until the Buyer has sold and delivered them to third parties; the Buyer will insure and keep insured the Products at Miss Berry's expense against the risk of fire, theft, loss and damage;
 - m. Miss Berry shall always have the right to terminate the commission agreement with immediate effect without giving reasons, in which case the Buyer shall cooperate fully with Miss Berry's repossession of the Products. The Buyer waives in advance any rights of retention in respect of the Products and will not have the Products attached.
- 12.3. The other articles of these conditions shall also apply (mutatis mutandis or otherwise) to commission agreements, except insofar as such application is not possible in view of the nature of a commission agreement. To the extent that article 12 paragraph 2 conflicts with any other article or paragraph of these conditions, the provisions of article 12 paragraph 2 shall prevail.

13. Intellectual and industrial property

- 13.1. All intellectual and industrial property rights relating to the Products and the packaging and packaging materials intended for them, all in the broadest sense of the word, belong exclusively to Miss Berry and its licensors.
- 13.2. For each infringement of a right as referred to in paragraph 1 of this article, the Buyer forfeits an immediately payable fine of € 5,000, plus an immediately payable fine of € 1,000 for each day, including a part of a day, that the infringement continues. This penalty clause is without prejudice to Miss Berry's other rights, including but not limited to its right to damages under the law.

14. Suspension, dissolution

- 14.1. Without prejudice to its other rights under the law and/or the Agreement and/or these terms and conditions, Miss Berry is entitled to suspend the fulfilment of its obligations or, without any notice of default or judicial intervention being required, to dissolve all or part of the Agreement by giving written notice to the Buyer if:
- a. the Buyer fails to fulfil an obligation incumbent on it, or fails to do so on time or properly;

- b. the Buyer gives Miss Berry good reason to fear that the Buyer will fail to fulfil one or more of its obligations;
 - c. the Buyer is declared bankrupt or the Buyer itself has filed for bankruptcy;
 - d. the Buyer is granted a suspension of payment, provisional or otherwise, or the Buyer has filed a petition to that effect;
 - e. a statutory debt rescheduling arrangement is declared applicable to the Buyer or a request for this has been submitted by the Buyer himself, or the Buyer has reached an extrajudicial settlement;
 - f. the Buyer's business is wound up; or
 - g. goods of Buyer are seized under execution or precautionary seizure which have not been lifted within three months after the date of the seizure.
- 14.2. If the Buyer's default under both the law and the Agreement and these terms and conditions only occurs after notice of default, Miss Berry will, in the case referred to in paragraph 1 under (a) of this article, not proceed to dissolve all or part of the Agreement until after it has sent the Buyer a written reminder setting a reasonable period for fulfilment and fulfilment has not been achieved within this period.
- 14.3. In the event of dissolution of the Agreement in whole or in part by Miss Berry, it shall not be liable for any compensation and all its claims against the Buyer shall be immediately due and payable in full.

15. Indemnification

- 15.1. Force majeure in these terms and conditions means: any circumstance not attributable to Miss Berry's fault in a subjective sense that makes it impossible or practically too inconvenient for Miss Berry to fulfil or continue to fulfil all or part of its obligations, including - but expressly not limited to - whole or partial crop failure, crop diseases, pest infestations, force majeure and/or default and/or unlawful acts on the part of Miss Berry's suppliers or carriers or on the part of other third parties involved in the performance of the Agreement, abnormal weather conditions, frost, storm damage and other damage caused by natural forces, strikes, transport difficulties, epidemics, fire, theft, war and danger of war, terrorist attacks and the threat of terrorism, as well as government measures, such as in any case but not limited to import, export and transit bans, levies, import duties and quotas.
- 15.2. In the event of force majeure, Miss Berry is entitled to suspend the performance of all or part of its obligations and the Buyer cannot claim performance or compensation. If the period of force majeure lasts longer than 3 months, either Party is entitled to dissolve the Agreement in whole or in part without being liable for compensation, on the understanding that if Miss Berry has partially fulfilled its obligation(s) before or after the force majeure occurs, it is always entitled to payment of a proportionate part of the agreed price. Miss Berry is also entitled to invoke force majeure if it occurs only after it should have fulfilled its commitment.

16. Liability and indemnification

- 16.1. Without prejudice to the provisions in the above articles, the following arrangements shall apply with regard to Miss Berry's liability for damage suffered by the Buyer and/or third parties and with regard to the Buyer's indemnification of Miss Berry.

- 16.2. Miss Berry shall only be liable for damage which is a direct consequence of a breach of its obligations under the Agreement attributable to it.
- 16.3. Miss Berry's total liability is limited to the amount paid out by the liability insurance taken out by Miss Berry in the case in question, plus the amount of the excess which, according to the policy conditions, is not borne by the insurers. If it is not possible for Miss Berry to take out liability insurance against reasonable conditions, or if, for whatever reason, no payment should be made under the aforementioned insurance, Miss Berry's total liability for whatever reason will be limited to the amount of the net invoice value of the Products in question, i.e. the price exclusive of turnover tax and other taxes and levies and exclusive of transport costs, subject to a maximum of €5,000 per event and a maximum of €25,000 per year. If the Agreement consists of several parts, Miss Berry's liability is further limited to the part of the Agreement where the damage occurred, subject to the aforementioned maximum amounts.
- 16.4. Miss Berry shall only be obliged to compensate direct damage. Direct damage means:
- the reasonable costs to determine the cause and extent of the direct damage;
 - any reasonable costs incurred to make Miss Berry's defective performance conform to the agreement, unless they cannot be attributed to Miss Berry;
 - the reasonable costs incurred to prevent or limit damage, insofar as the Buyer demonstrates that these costs have actually led to a limitation of direct damage.
- 16.5. Under no circumstances shall Miss Berry be liable for indirect damage, consequential damage, trading loss, stagnation damage, loss of profit, missed savings, damage resulting from claims of Buyer's customers, loss of customers, reduced goodwill and reputational damage.
- 16.6. Miss Berry shall not be liable for damage caused by third parties it has engaged in the performance of an Agreement.
- 16.7. Insofar as compliance by Miss Berry is not permanently impossible, Miss Berry's liability on account of an attributable failure in the fulfilment of its obligations will only arise if the Buyer has given Miss Berry immediate notice of default in writing, accurately specifying the nature of the failure and setting a reasonable deadline for remedying the failure, and Miss Berry continues to fail attributable in the fulfilment of its obligations even after that deadline has passed.
- 16.8. A condition for any right to compensation is always that the Buyer reports the damage to Miss Berry in writing without delay, but no later than 14 days after the Buyer has become aware of the damage or should reasonably have become aware of it.
- 16.9. Any legal actions must, under penalty of forfeiting all rights, be brought no later than 1 year after timely notification of the damage.
- 16.10. The Buyer must indemnify Miss Berry against any liability that might rest with Miss Berry against third parties in respect of Products delivered or to be delivered by Miss Berry. The Buyer must reimburse Miss Berry for the reasonable costs of defence against third party claims.
- 16.11. Miss Berry will not invoke a limitation of its liability, and the Buyer will not be obliged to indemnify Miss Berry, insofar as the damage is the direct result of intent or deliberate recklessness on the part of Miss Berry or managerial subordinates belonging to its management.
- 16.12. The above regulation does not apply insofar as provisions of mandatory law oppose it.

17. Product liability

- 17.1. Miss Berry purchases its Products (which, in this article, refers to the Products in an individual packaging unit) from various suppliers and records in its administration, for

each delivery, from which supplier the Products originate and on which date they were delivered. For each delivery, the Buyer must take at least 3 samples of a minimum of 1 kg each, randomly selected from different suppliers and different packaging units. These samples must be stored separately and kept in a controlled environment until the production process is fully completed and the Buyer's final inspection of the Products has confirmed that no contamination traceable to Miss Berry has been detected.

- 17.2. Miss Berry declares that the Products it delivers have been carefully selected, packed and transported in accordance with the applicable standards and legal regulations in the Netherlands. However, due to the nature of the Products, Miss Berry cannot guarantee unforeseen circumstances that may occur after delivery, such as spoilage, loss of quality or damage due to improper storage or handling by the Buyer or third parties.
- 17.3. Miss Berry is not liable for damage, direct or indirect, caused by the (further) processing or consumption of the Products, unless the damage is the direct result of intent or gross negligence by Miss Berry. This includes, but is not limited to, damage caused by:
 - Improper storage of the Products by the Buyer or a third party after delivery.
 - Consumption of the Products beyond the recommended expiry date.
 - Allergic reactions or other health complaints related to individual sensitivities or intolerances to the Products supplied, unless Miss Berry has been negligent in providing the correct product information.
- 17.4. In the unlikely event that Miss Berry would nevertheless be liable, the liability shall remain limited in accordance with what is stipulated above in article 16.
- 17.5. This exclusion of liability does not apply if the damage is the direct result of a defect in the Product that Miss Berry knew or should have known at the time of delivery and did not notify the Buyer of it.
- 17.6. If Products originating from different suppliers and/or from different deliveries are mixed together at the Buyer's request, the Buyer itself qualifies as producer and product liability cannot be passed on by the Buyer to Miss Berry. In that case, the Buyer itself bears the risks of product liability.

18. Applicable law, disputes and costs

- 18.1. The legal relationship between the Parties shall be governed exclusively by Dutch law, subject to the extended retention of title under German law set out above in Article 7.5. Applicability of the Vienna Sales Convention (CISG) is expressly excluded.
- 18.2. All disputes which may arise between the Parties as a result of or in connection with an Agreement and/or these terms and conditions shall in the first instance be settled exclusively by the District Court of Rotterdam (proceedings on the merits) or the Preliminary Relief Judge of the District Court of Rotterdam (summary proceedings and other interim measures), without prejudice to Miss Berry's entitlement to submit disputes as referred to herein to any other competent court.