



## GENERAL SALES AND DELIVERY CONDITIONS

Boumanfruit established in (5221 EE) 's-Hertogenbosch at De Beverspijken 11 as well as its legal successors and / or affiliated companies, herinafter referred to as 'Boumanfruit', has established the following General Terms and Conditions of Sale:

### **Article 1 Definitions**

1. Counterparty: any (legal) person who enters into an agreement with Boumanfruit, or to whom Boumanfruit makes an offer and / or quotation, and in addition to this, its representative (s), authorized representative (s), successor in title (s) and heirs;
2. Agreement: any agreement that is concluded between Boumanfruit and the Other Party, any amendment or addition thereto, as well as all (legal) acts in preparation for and for the implementation of that Agreement;

### **Article 2 Applicability**

1. These General Terms and Conditions of Sale apply to all quotations, offers made, Agreements concluded and orders accepted by Boumanfruit. These General Terms and Conditions of Sales thus apply to all (legal) acts (including omissions) of Boumanfruit and its relevant other party.
2. Agreements as referred to in paragraph 1 of this article include sales, commission, consignment, framework and related agreements.
3. The Other Party permits Boumanfruit to make use of third parties, not being employees of Boumanfruit, for the implementation of the provisions of the Agreement. The General Terms and Conditions of Sale also apply to legal acts performed by these third parties in the context of the performance of obligations resting on Boumanfruit under the Agreement.
4. Deviations from and / or additions to any provision in the General Terms and Conditions of Sale only bind Boumanfruit if these deviations and / or additions have been explicitly agreed without reservation and in writing between Boumanfruit and the Other Party. Any agreed deviations and / or additions only relate to the relevant Agreement.
5. If and insofar as the Other Party, when accepting a quotation or offer, or concluding an Agreement, refers to general terms and conditions other than the General Terms and Conditions of Sale of Boumanfruit in order to make these general terms and conditions apply to the Agreement, then general terms and conditions other than these terms and conditions only apply to the agreement if Boumanfruit has explicitly accepted these general terms and conditions in writing without reservation.

6. If any provision of these general Terms and Conditions of Sale - after the intervention of a judicial authority – proves to be invalid, only the relevant provision will be excluded from application. All other provisions remain in full force and effect.

### **Article 3 Offers and prices**

1. All agreements concluded by Boumanfruit are deemed to have been concluded at the place of establishment of Boumanfruit, namely 's-Hertogenbosch, both with regards to the performance of the agreement and the payment of the agreement.

2. All amounts stated in quotations, offers, Agreements and orders are stated in Euros, unless parties have agreed otherwise in writing. Furthermore, all amounts mentioned are exclusive of transport costs and turnover taxes, unless the parties have agreed otherwise in writing.

3. Every offer made by Boumanfruit is without obligation.

4. Boumanfruit reserves the right to refuse orders without stating reasons.

5. Boumanfruit is not obliged to honor an offer and / or an agreement for a stated price if this price is based on a printing and / or writing error.

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### **Article 4 Agreement**

1. If a quotation contains an offer without obligation, which is accepted by a third party (Counterparty), Boumanfruit has the right to revoke the offer within two working days after receipt of the acceptance.

2. The other Party will receive written confirmation of the order or a written record of the Agreement from Boumanfruit. This written record may consist of the invoice and / or purchase order.

3. If, after the Agreement

3. If, after the Agreement has been concluded, the parties have agreed on further and / or additional agreements or changes, these will only be binding if and insofar as these agreements have been recorded in writing. Here too, the written record can consist of the invoice and / or purchase order.

### **Article 5 Cancellation of the Agreement**

1. Cancellation of the Agreement by the Other Party is only possible if this is done in writing before the start of the performance of the Agreement. With due observance of the provisions below, all preparation costs incurred by Boumanfruit will at all times be charged to the Other Party in the event of cancellation.

2. If the agreement is canceled within 72 hours prior to the agreed time of delivery, the Other Party will owe compensation in addition to the preparation costs, which can be determined up to 50% of the agreed price. If cancellation takes place later than 24 hours prior to the agreed time of delivery, the Other Party may owe the full agreed price. The prominent only at the discretion of Boumanfruit.

3. In the event of cancellation, regardless of the time of cancellation, the Other Party is obliged to reimburse Boumanfruit for the costs that Boumanfruit must pay to third parties by virtue of and in connection with the - canceled - Agreement.

#### Article 6 Delivery

1. The agreed delivery time is not a deadline, unless the parties have explicitly agreed otherwise.

2. Delays in delivery - insofar as it remains within the limits of reasonableness - do not entitle the Other Party to dissolve the Agreement or any compensation.

3. The quantity delivered by Boumanfruit with regard to number and weight, as well as requirements prescribed by public and / or private law, is deemed to comply with what the parties have agreed in this respect, subject to proof to the contrary to be provided by the Other Party. The parties thus agree on an explicit presumption of evidence.

4. Delivery takes place ex warehouse, unless the parties have agreed otherwise in writing. The time of delivery is the time at which the goods are collected from the warehouse.

5. If the parties have agreed that Boumanfruit will store the goods to be delivered by it for the benefit of the Other Party, whether or not at its own premises or with a third party, delivery will take place when the goods are stored.

6. Before fulfilling its obligations under the Agreement, Boumanfruit is always entitled to demand sufficient security for the fulfillment of the payment obligations of the Other Party.

7. If the Other Party still has any payment obligation to Boumanfruit, in particular if invoices from Boumanfruit have still been wholly or partially unpaid by the Other Party, Boumanfruit is entitled to suspend the delivery obligations until the Other Party has fulfilled all its obligations.

#### Article 7 Acceptance and complaints

1. The other party must inspect and check these items immediately after delivery by Boumanfruit of the agreed goods. This inspection and check must take place in the presence of the driver. The Other Party must check whether the goods delivered comply with the provisions of the Agreement, namely: a. Whether the correct goods have been delivered; b. whether the goods delivered meet the quality requirements to be set and agreed in this respect, i.e. the requirements that may be set for normal use and / or for commercial purposes; c. whether the delivered goods correspond in terms of quantity (number, quantity, weight) with what the parties have agreed in this respect. If the deviation established by the Other Party is less than 10%, the Other Party is obliged to fully accept the goods delivered.

2. If the goods are delivered ex warehouse, the other party must check the goods delivered in the sales area of Boumanfruit.

3. Any shortcomings and objections that do not relate to circumstances as stated in paragraph 1 of this article under c, must be reported to Boumanfruit in writing immediately after discovery, but no later than 24 hours after delivery. If Boumanfruit does not receive a complaint immediately after delivery of the goods,

the goods will be deemed to have been delivered in accordance with the provisions of the Agreement and without any shortcoming.

4. Complaints regarding defects that are not immediately visible must be reported in writing to Boumanfruit as soon as possible after discovery so that Boumanfruit is able to investigate the correctness of the complaints concerned on site. The Other Party must enable Boumanfruit to check the complaint of the Other Party for correctness. If Boumanfruit has not received a written complaint from the Other Party within 24 hours after delivery, it is assumed that the shortcoming and / or the shortcoming is not considered to be present at the time of delivery, but it is assumed between the parties that this shortcoming and / or whether this defect arose after delivery.
5. The provisions of this article apply in full if the goods delivered by Boumanfruit for the Other Party are delivered to a third party. The Other Party can thus never, never object to Boumanfruit that it has not inspected and checked the delivered goods because they were stored elsewhere, at a third party.
6. The Other Party is obliged at all times as a careful debtor and / or possessor to ensure the preservation of the goods.

#### Article 8 Payments

1. The Other Party must pay the agreed price after receipt of the invoice relating to the delivery - without discount or appeal to compensation - within 30 days of the invoice date, unless this arrangement has been deviated from.
2. Settlement by the Counterparty of the amounts invoiced by Boumanfruit with a counterclaim made by it (Counterparty), or suspension of payment by the Counterparty in connection with a counterclaim made by Boumanfruit, is not permitted, unless Boumanfruit owes the counterclaim expressly and without reservation, or the existence of the counterclaim has been irrevocably established in court.
3. If the payment term is exceeded, the Other Party will owe a penalty interest of 1% per month, without prejudice to Boumanfruit's other rights, such as the right to compensation for extrajudicial costs and statutory interest.
4. If the payment term is exceeded, the Other Party will owe statutory commercial interest on the outstanding amount, without prior notice of default. Insofar as it should be established in law that the Other Party does not owe the statutory commercial interest, it owes Boumanfruit the statutory interest.
5. If the Other Party, even after it has been given notice of default by Boumanfruit, continues to fail to pay the outstanding amounts to Boumanfruit, it is also obliged to pay compensation of the outstanding amounts then due, consisting of the outstanding amounts plus the interest owed. the extrajudicial collection costs. The

amount of the extrajudicial collection costs is set at 15% of the principal amount due.

6. Payments made by the Other Party always serve first to settle all interest and costs owed and then to settle the outstanding invoices that have been outstanding the longest. This is no different if the Other Party states that the payment relates to a later invoice.

#### Article 9 Retention of title.

1. Goods delivered by Boumanfruit remain its property until the moment of full payment of all claims of Boumanfruit against the Other Party on account of agreements concluded between them, including interest and costs.
2. The Other Party is only authorized to resell goods delivered by Boumanfruit that fall under the retention of title, as set out in paragraph 1 of this article, if resale is part of the Other Party's normal business operations.

3 If the Other Party does not fulfill its obligations, or if there is well-founded fear at Boumanfruit that the Other Party is unable to fulfill its obligations under the Agreement, or if there is a suspicion that the Other Party is under its obligations does not wish to comply, Boumanfruit is entitled to retrieve or have collected the goods delivered by it - on which the retention of title referred to in paragraph 1 of this article applies - from the Other Party or the third party that keeps the goods for the Other Party. The other party is obliged to cooperate in such an action on the part of Boumanfruit.

4. If third parties wish to establish or exercise any right to the goods delivered by Boumanfruit under retention of title, the Other Party must notify Boumanfruit of this by return of post. Furthermore, the Other Party must point out to this third party the circumstance that the goods have been delivered under retention of title. The other party must provide the third party with the agreement concluded between the parties showing that a retention of title has been made with regard to the goods delivered.

5. The Other Party is obliged to cooperate with all measures that Boumanfruit wishes to take to protect its right of ownership with regard to the goods delivered by it.

#### Article 10 Liability and risk

1. If the Other Party has in its possession goods delivered by Boumanfruit which belong to Boumanfruit (including packaging) and / or are subject to the retention of title as referred to in Article 9 of these General Terms and Conditions of Sale, the Other Party is until the moment of return of these items, or the moment of transfer of ownership of these items, liable for damage caused by and / or with these items.
2. Furthermore, the Other Party is liable - if it has goods in its possession that belong to Boumanfruit (including packaging) and / or are subject to the retention

of title as referred to in Article 9 of these General Terms and Conditions of Sale - for damage suffered by Boumanfruit as a result of damage, loss or destruction of these items and any damage occurring in the period between the time when Boumanfruit delivered the items and the moment of return of these items or the moment of the transfer of ownership of these items.

3. If Boumanfruit has to make use of its retention of title as a result of circumstances attributable to the Other Party, but nevertheless suffers damage, the Other Party is liable for the damage suffered by Boumanfruit.
4. The Other Party will - if in the context of the implementation of the Agreement, has goods in its possession which belong to Boumanfruit (including packaging) and / or fall under the retention of title as referred to in article 9 of these General Terms and Conditions of Sale, in the event of theft, loss or damage to the goods delivered to him by Boumanfruit, immediately report this to Boumanfruit. In the event of theft or war damage, the Counterparty will also immediately report this to the police of the municipality where the theft took place or where the war risk was caused. The other party must provide Boumanfruit with a copy of this declaration.
5. If Boumanfruit has delivered goods to the Other Party that belong to a third party, then the Other Party indemnifies Boumanfruit against all claims from this third party that are related to damage caused by and / or with the goods that Boumanfruit has to the Other Party. delivered, as well as damage to the goods delivered by Boumanfruit to the Other Party.
6. If the Counterparty, or a third party to whom the Counterparty has delivered the goods delivered by Boumanfruit, carries out a re-call action or has it carried out, Boumanfruit can only be held liable for (a part) of the associated costs, if i) it is established that Boumanfruit is liable for the circumstance that led to the re-call, and ii) Boumanfruit was consulted and had a say before the re-call was carried out, as well as iii) it has been established that the Other Party has behaved as a reasonably acting and reasonably competent colleague and has endeavored to keep the costs associated with the re-call as limited as possible.
7. If Boumanfruit is liable for any damage, any liability of Boumanfruit is limited to the amount that is paid out in the relevant case under Boumanfruit's company liability insurance, plus the deductible under this insurance. If, for whatever reason, no payment should be made under this insurance policy, any liability is limited to the amount of the invoice corresponding to the Agreement on the basis of which the Other Party claims, on the understanding that any liability is limited to an amount of EUR 5,000. .

#### Article 11 Force majeure

1. In the event of force majeure, Boumanfruit is entitled either to suspend the performance of the Agreement or to dissolve the Agreement in whole or in part, without the Other Party being able to initiate any claim for damages against it (Boumanfruit).

2. Force majeure on the part of Boumanfruit includes - among other things - : - strikes on the part of the employees of Boumanfruit or third parties engaged by it for the performance of the Agreement; - illness of employees of Boumanfruit or third parties engaged by it for the performance of the Agreement; - measures and / or bans by the Dutch and / or foreign government to which Boumanfruit is bound; - unforeseeable and unpredictable traffic obstructions; - accident (s) with a means of transport used for the implementation of the Agreement as well as unforeseen technical defects in these means of transport; - (attributable) failure to perform by suppliers of Boumanfruit; - theft of items required for the performance of the Agreement;
3. If Boumanfruit has already partially fulfilled its obligations when the force majeure commences, or can only partially fulfill its obligations, then Boumanfruit is entitled to invoice separately for the part already delivered or delivered. The Other Party is then obliged to pay the invoice as if it concerned a separate agreement.
4. All agreements pertaining to the sale of agricultural products are subject to crop reservation. If, as a result of a disappointing harvest with regard to the quantity and / or quality of agricultural products, so many products are less available, which also includes rejection by the competent authorities than could reasonably be expected at the conclusion of the agreement, then Boumanfruit has the right to reduce the quantities sold by it accordingly. By supplying this reduced volume, Boumanfruit fully complies with its delivery obligations. Boumanfruit is then not obliged to supply replacement agricultural products and is also not liable for any damage whatsoever.

#### Article 12 Default and dissolution

1. If the Other Party does not, not properly or not timely comply with any obligation that may arise for it from the Agreement or the law concluded with Boumanfruit, including the obligation to pay on time as included in Article 8 of these General Terms and Conditions of Sale, the Other Party is without notice of default being in default and Boumanfruit is entitled to suspend performance of the Agreement and / or to dissolve that Agreement and directly related Agreements in whole or in part, without Boumanfruit being obliged to pay any compensation and without prejudice to any further rights accruing to Boumanfruit.
2. If the Other Party is in default, it will owe Boumanfruit the statutory (commercial) interest as well as all (extra) judicial costs that Boumanfruit reasonably had to incur in order to determine the liability of the Other Party and / or to obtain payment of its claim, and they fall under the scope of article 6:96 paragraph 2 BW.
3. In the event of (provisional) suspension of payment or bankruptcy of the Counterparty, shutdown or liquidation of the Counterparty's business, all Agreements with the Counterparty will be dissolved by operation of law, unless Boumanfruit informs the Counterparty within a reasonable period of compliance with ( to demand part) of the relevant Agreement (s), in which case Boumanfruit is

entitled to suspend the execution of the relevant Agreement (s) without notice of default, until payment has been sufficiently secured, without prejudice to any further rights accruing to Boumanfruit.

4. Boumanfruit has the right to terminate the Agreement if there is permanent force majeure on the part of the Other Party. The Other Party will then reimburse Boumanfruit for all costs incurred and to be incurred by Boumanfruit.
5. In each of the cases referred to in paragraphs 1, 2, 3 and 4 of this article, all claims of Boumanfruit against the Other Party are immediately due and payable and the Other Party is obliged to immediately return the rented or unpaid items.
6. The Other Party must immediately inform Boumanfruit if movable or immovable property belonging to Boumanfruit and which the Other Party has in its possession in the context of the performance of the Agreement is seized.
7. In the event of bankruptcy or suspension of payment, the Other Party must immediately inform Boumanfruit of this, and immediately show a bailiff, bankruptcy trustee or administrator the Agreement, pointing out Boumanfruit's property rights.

#### Article 13 Packaging

1. Boumanfruit also uses packaging in the context of the delivery of its goods. Packaging includes - among other things - pallets and crates. If Boumanfruit charges a deposit in this respect, the packaging will be taken back at the invoice price applicable at the time of return (in the event that business is done in foreign currency, the packaging will be taken back at the applicable course). For the receipt of returned packaging, a fixed cost reimbursement may be charged in accordance with the applicable regulations. The Other Party will be provided with this arrangement at its request.
2. The packaging that the Other Party wishes to return must be clean and fresh in such a way that it is suitable for use for fresh edible horticultural products without further action on the part of Boumanfruit.
3. If packaging is to be returned using Boumanfruit's own means of transport, the Other Party must ensure that the packaging is sorted and ready for transport.
4. Packaging not supplied by Boumanfruit will only be taken back if and insofar as Boumanfruit carries the relevant products in its own assortment and the packaging is in good condition.

#### Article 14 Industrial and intellectual property rights

1. Boumanfruit explicitly reserves any intellectual and / or industrial property rights (brands) with regard to the products it supplies.
2. The Other Party is not permitted to use the products delivered by Boumanfruit to infringe the intellectual and / or industrial property rights of a third party. The



Other Party indemnifies Boumanfruit against any claims from third parties on account of an infringement of intellectual and / or industrial property rights that are made with the aid of the goods delivered by Boumanfruit, and that take place after Boumanfruit has delivered the goods to the Other Party.

#### Article 15 Applicable law

The legal relationship between Boumanfruit and the Other Party is governed by Dutch law.

#### Article 16 Disputes

1. Disputes arising from an assignment, quotation, offer or Agreement to which these General Terms and Conditions of Sale apply, including conflicts relating to these General Terms and Conditions of Sale, will be settled exclusively by the competent court in the district where Boumanfruit is located. on the understanding that this choice of forum does not affect the right of Boumanfruit to settle a dispute through arbitration or binding advice.

2. Contrary to the provisions of paragraph 1 of this article, the parties may agree in writing to leave the settlement of the dispute to the competent court in another district.