



Article 1: Definitions

The following definitions shall be used in these general terms and conditions (“terms and conditions”):

Supplier:	EXSA Europe B.V. with its registered office in Elshout,
Other Party:	the Party with whom the Supplier has concluded an Agreement or with whom the Supplier negotiates on this matter;
Parties:	the Supplier and the Other Party;
Agreement:	any agreement between the Parties for the delivery of goods by the Supplier to the Other Party and/or the provision of services by the Supplier to the Other Party and/or the performance of any other activities by the Supplier for the Other Party’s benefit, any amendment or addition to this Agreement and any actual and legal transactions in preparation and for the execution of this Agreement, including offers from the Supplier;
Products:	all goods and/or services and/or other activities being the subject of an Agreement;
Person:	a natural or legal person or company without legal personality.

Article 2: General

1. These terms and conditions shall apply to all Agreements to the express exclusion of all other general conditions.
2. Provisions deviating from these terms and conditions shall only be binding if agreed in writing and shall only apply to that specific case.
3. All provisions in these terms and conditions were not only drawn up for the Supplier’s benefit, but also for the benefit of its directors and shareholders and all Persons working for the Supplier or engaged by the Supplier in the execution of an Agreement, as well as all Persons for whose actions and omissions the Supplier could be liable.

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4. If the Supplier omits in specific cases to demand strict compliance with these terms and conditions, this shall not cause the Supplier to lose its right to demand strict compliance with these terms and conditions in future cases, whether similar or not.
5. These terms and conditions are available in various languages. In the event of any discrepancy as to the contents or purport of these terms and conditions, the Dutch text shall prevail.

Article 3: Offers, Agreements

1. All information and specifications issued with offers from the Supplier are always only approximations. Deviations up to 10% shall be permitted as a matter of course.
2. All offers from the Supplier are free of obligation. The Supplier is entitled to revoke its offer within three working days of receipt of acceptance.
3. Any acceptance by the Other Party that deviates from the Supplier's offer whether or not on subordinate points will in any case be considered a rejection of this offer and as a new offer from the Other Party. An Agreement shall only be concluded in accordance with this new offer following the Supplier's acceptance in writing or electronically.
4. An Agreement shall be concluded at the point when (a) three working days have passed after the Supplier has received acceptance from the Other Party and the Supplier has not revoked its offer during this period, or if (b) the Supplier has confirmed the Agreement in writing or electronically, or (c) the Supplier has commenced the execution of the Agreement.
5. The Supplier is not obliged to implement an offer and/or an Agreement for a stated price if this price is based on a printing and/or a written error.
6. All Agreements for the delivery of agricultural Products by the Supplier shall be subject to harvest results. If fewer Products are available than could reasonably be expected upon entering into the Agreement due to a disappointing harvest in terms of volume and/or quality of agricultural Products or due to the Products being rejected by the competent authorities, the Supplier shall be entitled to reduce the quantities it sells accordingly. The Supplier shall have fulfilled its obligation to deliver by delivering the quantities for delivery thus reduced. In this case, the Supplier shall not be obliged to deliver any replacement agricultural Products, nor shall it be responsible for any loss whatsoever.

Article 4: Prices

1. All prices shall be in euros and exclusive of value added tax and other taxes and levies and exclusive of transport costs, unless the Parties agree otherwise in writing.

2. The prices shall be based upon the cost price-determining factors at the time of concluding the Agreement. If, nevertheless, a change occurs in these factors after the Agreement has been concluded but before the Products are delivered without the Supplier being reasonably able to influence this, the Supplier shall be entitled to charge the resulting costs to the Other Party.

Article 5: Payment

1. The Supplier's invoices shall be paid within the 30-day period stated on the invoices.
2. Payment shall be made unconditionally without suspension, discount or offsetting for whatever reason. The Other Party shall refrain from imposing an attachment on its own assets in respect of a counterclaim against its creditor (in Dutch: "eigenbeslag").
3. The Other Party shall be in default by the expiry of the payment term without any notice of default being required.
4. If the Other Party is in default of making any payment, all the Supplier's claims against the Other Party shall be fully and immediately due and payable.
5. The Other Party will be liable to pay default interest at 1% per month or part of a month during its period of default in paying outstanding debts.
6. In case of extrajudicial collection, the Other Party shall also be liable for the actual collection costs that EXSA Europe B.V. incurs in addition to the principal sum and the late payment interest. The extra-judicial collection costs shall be charged at 15% of the principal sum outstanding.
7. The legal costs shall not be limited to the assessed costs of the proceedings, but shall be borne in full by the Other Party if it loses the legal action entirely or essentially.
8. Further to a relevant request from the Supplier, which request can be made both prior to and during execution of the Agreement, the Other Party will make a full or partial advance payment or, alternatively, provide sufficient security for its own account for the fulfilment of its obligations. The expression "sufficient security" shall in any case mean a bank guarantee to be produced at the Supplier's first request issued by a reputable Dutch bank totalling 110% of the amounts payable by the Other Party (100% of these amounts plus a 10% surcharge for interest).
9. The Supplier is entitled to retain goods, documents and monies from any person at the Other Party's expense and risk until such time as the Other Party has fulfilled all its obligations on whatever basis to the Supplier. All goods, documents and monies that the Supplier has

received or will receive for any reason shall serve as security for all claims that it has or will acquire against the Other Party.

10. The Supplier shall be entitled at any time to offset any amounts that it owes the Other Party or any of its affiliated legal persons or companies, for any reason, against the amounts that the Supplier or any of its affiliated legal persons or companies claim from the Other Party or any of its affiliated legal persons or companies. The entitlement to offset within the meaning of this paragraph shall also apply if the payment of the claims is not yet enforceable.

Article 6: Conformity, delivery times, delivery and risk

1. The conformity of the Products shall be assessed based on the legislation and regulations in the Netherlands at the time of delivery. The Supplier is not obliged to take account of any other legislation and regulations, or to fulfill specific direct or indirect customer requirements unless the Parties agree otherwise in writing.
2. The delivery times stated by the Supplier are always approximations and shall never be considered final deadlines.
3. The Products that the Supplier sells shall be delivered ex warehouse (Ex Works) unless the Parties agree in writing that the Products sold be delivered CPT the Other Party's business premises or CPT another agreed destination. The risk shall pass to the Other Party at the point at which the Supplier makes the Products available to the Other Party or, in case of delivery CPT, at the point at which the Supplier hands over the Products to the first carrier. The Supplier is never obliged to insure the sold Products for the duration of the transport. The terms "Ex-Works" and "CPT" shall be construed in accordance with the latest version of the Incoterms.
4. If the Parties agree that the Supplier shall store Products for the Other Party on either the Supplier's premises or those of a third party and these Products have not yet been delivered to the Other Party, the Products shall be considered to have been delivered at the moment of storage. The Supplier is never obliged to insure the sold Products for the duration of the storage.
5. The Supplier shall be authorized, but never obliged, to deliver the sold Products in part deliveries and to invoice each part delivery separately.
6. The Other Party shall be obliged to accept the Products purchased. The obligation to accept the Products shall consist of: a) the performance of all actions that can reasonably be expected of the Other Party in order to enable the Supplier to carry out the delivery and b) accepting the Products. If the Products are not accepted within six hours after having been made available to the Other Party or, in the case of delivery CPT, immediately after arrival of the Products at the place of destination, the Other Party shall be in default without any notice of default being required and the Supplier shall be entitled to dissolve the Agreement and claim compensation

from the Other Party without prejudice to its other rights, including the right to store the Products at the Other Party's expense and risk.

Article 7: Retention of title

1. The Supplier shall retain the right of ownership of all Products delivered until the purchase price has been paid in full. Retention of title shall also apply to the other claims stated in article 3:92, paragraph 2 of the Dutch Civil Code that the Supplier has or shall acquire against the Other Party.
2. Insofar as ownership of the Products has not passed to the Other Party, the latter may not pledge the Products or grant any third party any rights to these. The Other Party is, however, permitted to sell and transfer to third parties the Products delivered under retention of title in the context of the normal running of its business, on the understanding that the Other Party is obliged to stipulate retention of title based on the provisions of this article if these are resold. The Other Party undertakes to refrain from assigning or pledging claims that it acquires against its customers without prior written permission from the Supplier. The Other Party is also obliged to pledge any claims against its customers to the Supplier on the Supplier's first request, as provided for in article 3:239 of the Dutch Civil Code for additional security for the fulfilment of its obligations towards the Supplier on whatever basis.
3. If the Other Party fails in its fulfilment of one or more of its obligations or the Supplier has good reason to fear that it shall do so, the Supplier shall be entitled to take back the Products delivered under retention of title. The Other Party shall provide any assistance in this. The Other Party shall renounce in advance any rights of retention regarding the Products and shall refrain from having the Products seized. After taking back the Products, the Other Party will be credited for the market value, which shall in no case exceed the original purchase price, minus the costs in connection with taking back the Products and any other loss that the Supplier incurs.
4. If the country of destination of the Products purchased allows more far-reaching possibilities with regard to the retention of title over and above those stipulated above, the Parties accept that these further possibilities shall be deemed to have been stipulated for the benefit of the Supplier on the understanding that if it cannot be objectively established what these further rules are, those stated above shall continue to apply.
5. If the Other Party is located in Germany and/or the Products are destined for Germany, the following extended and extensive retention of title under German law shall apply whereby the Supplier shall be referred to as "wir" and the Other Party as "Käufer":

Das Eigentum an den gelieferten Waren bleibt zur Sicherung aller Ansprüche vorbehalten, die uns aus der gegenwärtigen und künftigen Geschäftsverbindung bis zum Ausgleich aller Salden gegen den Käufer zustehen.

Unser Eigentum erstreckt sich auf die durch Verarbeitung der Vorbehaltsware entstehende neue Sache. Der Käufer stellt die neue Sache unter Ausschluss eigenen Eigentumserwerbs für uns her und verwahrt sie für uns. Hieraus erwachsen ihm keine Ansprüche gegen uns.

Bei einer Verarbeitung unserer Vorbehaltsware mit Waren anderer Lieferanten, deren Eigentumsrechte sich ebenfalls an der neuen Sache fortsetzen, erwerben wir zusammen mit diesen anderen Lieferanten - unter Ausschluss eines Miteigentumserwerbs des Käufers - Miteigentum an der neuen Sache zu deren vollem Wert (einschließlich Wertschöpfung) wie folgt: a) Unser Miteigentumsanteil entspricht dem Verhältnis des Rechnungswertes unserer Vorbehaltsware zu dem Gesamtrechnungswert aller mitverarbeiteten Vorbehaltswaren. b) Verbleibt ein von Eigentumsvorbehalten zunächst nicht erfasster Restanteil, weil andere Lieferanten den Eigentumsvorbehalt nicht auf die Wertschöpfung durch den Käufer erstreckt haben, so erhöht sich unser Miteigentumsanteil um diesen Restanteil. Haben jedoch andere Lieferanten ihren Eigentumsvorbehalt ebenfalls auf diesen Restanteil ausgedehnt, so steht uns an ihm nur ein Anteil zu, der sich aus dem Verhältnis des Rechnungswertes unserer Vorbehaltsware zu den Rechnungswerten der mitverarbeiteten Waren dieser anderen Lieferanten bestimmt.

Der Käufer tritt bereits jetzt seine Forderungen aus der Veräußerung von Vorbehaltsware aus unseren gegenwärtigen und künftigen Warenlieferungen mit sämtlichen Nebenrechten im Umfang unseres Eigentumsanteils zur Sicherung an uns ab. Bei Verarbeitung im Rahmen eines Werkvertrages wird die Werklohnforderung in Höhe des anteiligen Betrages unserer Rechnung für die mitverarbeitete Vorbehaltswerte schon jetzt an uns abgetreten.

Solange der Käufer seinen Verpflichtungen aus der Geschäftsverbindung mit uns ordnungsgemäß nachkommt, darf er über die in unserem Eigentum stehende Ware im ordentlichen Geschäftsgang verfügen und die an uns abgetretenen Forderungen selbst einziehen. Bei Zahlungsverzug oder begründeten Zweifeln an der Zahlungsfähigkeit oder Kreditwürdigkeit des Käufers sind wir berechtigt, die abgetretenen Forderungen einzuziehen und die Vorbehaltsware zurückzunehmen, jedoch liegt ein Rücktritt vom Vertrag nur dann vor, wenn wir dies ausdrücklich schriftlich erklären.

Übersteigt der Wert der uns eingeräumten Sicherheiten unsere Forderungen um mehr als 10%, so werden wir auf Verlangen des Käufers insoweit Sicherheiten nach unserer Wahl freigeben.

Scheck-/Wechsel-Zahlungen gelten erst nach Einlösung der Wechsel durch den Käufer als Erfüllung.

Article 8: Suspension, dissolution

1. Without prejudice to its other rights under the law and/or the Agreement and/or these terms and conditions, the Supplier shall be entitled to suspend its obligations or, without this requiring any notice of default or judicial intervention, to dissolve all or part of the Agreement by means of written notification to the Other Party if: (a) the Other Party fails to comply on time or properly with any commitment under the Agreement and/or (b) the Supplier has good reason to believe that the Other Party will fall short in fulfilling one or more of its obligations and/or (c) the Other Party has been declared bankrupt, is the subject of bankruptcy proceedings, has been granted suspension of payments, whether provisional or not, or has applied for suspension of payments, or is subject to a statutory debt restructuring programme or if this has been requested, the Other Party's business is being liquidated or the Other Party's goods are subject to enforcement or pre-judgment attachment that has not been lifted within one month of the date of attachment.
2. If, pursuant to both the law and the Agreement and these terms and conditions, the Other Party's default only starts after it has been given notice of default, the Supplier, in the case provided for in paragraph 1 under (a) of this article, shall not terminate all or part of the Agreement until it has sent the Other Party a written warning stating a reasonable period for compliance and the Other Party has failed to comply during this period.
3. In case it terminates all or part of the Agreement, the Supplier shall not be liable for compensation and all its claims against the Other Party shall be payable immediately and in full.

Article 9: Force majeure

1. The following shall be considered as "force majeure" (a non-attributable shortcoming) for the purpose of these terms and conditions: any circumstance not subjectively attributable to a fault of the Supplier making it impossible or practically too problematic for the Supplier to fulfil or to continue fulfilling its obligation or part thereof including but not expressly limited to complete or partial failed harvests, plant diseases, vermin infestation, force majeure and/or breach of contract ("attributable non-performance") and/or unlawful actions on the part of the Supplier's sub-suppliers or carriers or by other third parties involved in implementing the Agreement, abnormal weather conditions, frost, storm damage and other damage caused by natural disasters, strikes, transport difficulties, epidemics, fire, theft, war and danger of war, terrorism, government measures such as import and export bans, levies, import duties and quota systems.

2. In the event of force majeure, the Supplier shall be entitled to suspend fulfilment of its obligation or part thereof without the Other Party being entitled to demand fulfilment or compensation.
3. If the force majeure exceeds one month, each Party shall be entitled to dissolve all or part of the Agreement without being liable for compensation on the understanding that the Supplier shall still be entitled to a proportionate share of the price if it fulfils part of its obligation before or after the occurrence of force majeure.
4. The Supplier shall also be entitled to invoke force majeure if this occurs after it should have fulfilled its obligation.

Article 10: Inspection and complaints

1. Immediately following delivery of the Products and therefore prior to the transport, the Other Party shall be obliged to carefully inspect, or have inspected, whether these Products correspond to the Agreement in every way and in particular: whether the correct Products have been delivered; whether the delivered Products satisfy the quality requirements for normal use and/or for commercial purposes; and whether the delivered Products correspond to what the Parties agreed in that case as regards quantity (number, amount, weight). The Other Party shall be obliged to accept the delivery in full for a proportional reduction in the price in the case of short deliveries up to 10% of the total quantity.
2. Any complaints regarding the quantity delivered and visible defects shall be reported to the Supplier immediately after the inspection provided for in paragraph 1 of this article and then be confirmed within 6 hours in writing stating precisely the nature of the shortcoming. The Supplier shall be notified in writing of any complaints regarding invisible defects within 12 hours after the defects have been discovered or should reasonably have been discovered but no later than within one day of delivery stating precisely the nature of the defects. The Other Party can no longer claim that the Products do not correspond to the Agreement once the stated complaints deadlines have expired.
3. Complaints regarding slight deviations and/or those normal in commerce and the sector and/or deviations in quality, size, weight, colour, quantity and suchlike that technically cannot be prevented shall not be admissible.
4. If the Supplier does not accept the Other Party's complaint within 6 hours, the Other Party shall be obliged within 12 hours to have a certified expert carry out an independent assessment, subject to forfeiture of all rights. The deadlines stated in this paragraph shall commence at 07.00 a.m. (local time at the Supplier's place of business) on the working day following the day on which the Other Party submitted the complaint. The Other Party shall

give the Supplier the opportunity of being present or represented during the assessment. The Supplier shall be entitled to have a second assessment carried out.

5. The Other Party shall provide all necessary assistance for the investigation of the complaint. The Other Party's complaint is not admissible if it fails to provide assistance or if the investigation is otherwise not or no longer possible.
6. If the Other Party's complaint is founded, also taking into account the provisions in this article, the Supplier, after consultation with the Other Party, shall ensure delivery of the missing Products, repair or replacement of the Products delivered or adjustment of the price. The Supplier shall have no further obligation or liability. The Supplier's approval shall be required for full or partial dissolution of the Agreement including reduction of the price.
7. The Other Party shall at all times ensure that the Products are maintained as expected of a careful debtor.
8. The Other Party is not free to return the Products until the Supplier has agreed this in writing. If the Supplier puts the returned Products into storage or take these in by different means, this shall be for the Other Party's expense and risk. Such measures shall never constitute approval or acceptance of returns.
9. If the Other Party fails to comply with the provisions of this article and the Supplier nevertheless deals with a complaint, the Supplier's efforts shall be considered a courtesy without implying acceptance of any obligation or liability.
10. If a complaint turns out to be unfounded, the Supplier shall be entitled to charge the Other Party for the internal and external costs it incurs when dealing with the complaint.
11. Any legal action shall be instituted no later than one year after the timely reporting of a complaint failing which all rights shall be forfeited.

Article 11: Liability and indemnity

1. Without prejudice to aforementioned provisions in these terms and conditions, the following rules shall apply regarding the Supplier's liability for damage sustained by the Other Party and/or third parties and regarding the indemnity of the Supplier by the Other Party.
2. The Supplier's overall liability for whatever reason shall be limited to the amount that is paid out in the particular case under the liability insurance that it has concluded, increased by the amount of the deductible for which the insurers shall not be liable under the policy conditions. If no payment is made under this insurance policy for any reason whatsoever, the Supplier's overall liability for whatever reason shall be limited to the net invoiced amount of the Products

in question, namely the price excluding value added tax and other taxes and charges and excluding transport costs.

3. The Supplier shall only be obliged to compensate damage to persons and property as described in the conditions of its liability insurance policy. The Supplier shall therefore not be liable for – and the Other Party shall be required to insure itself against – among other things consequential damage, trading losses, business interruption losses, loss of profits, lost savings, loss due to claims from the Other Party's customers, loss of customers, reduced goodwill and damaged reputation. Neither is the Supplier liable for claims made by third parties and is indemnified against this by the buyer.
4. The Other Party shall - if within the scope of the execution of the Agreement it has acquired property that belongs to EXSA Europe B.V. (including packaging) or is subject to the retention of title as stipulated in Article 7 of these General Terms and Conditions of Sale - in the event of theft, loss or damage to the property supplied by EXSA Europe B.V., immediately report this to EXSA Europe B.V. The Other Party shall also immediately report theft or acts of war to the police of the municipality in which the theft or act of war took place. The Other Party is obliged to provide EXSA Europe B.V. with a copy of this report.
5. If the Other Party, or a third party to whom the Other Party has subsequently supplied the property supplied by EXSA Europe B.V., carries out a recall or has a recall carried out, EXSA Europe B.V. may only be held liable for (a part) of the associated costs if, i) it is established that EXSA Europe B.V. is liable for the circumstances that led to the recall, and ii) EXSA Europe B.V. was consulted and able to participate before the recall was carried out, as well as if, iii) it is established that the Other Party has behaved as a reasonable acting and reasonably competent counterpart and has endeavored to minimize the costs associated with the recall as much as possible.
6. Without prejudice to the aforementioned provisions in this article, the Supplier's liability for Products that it purchased from third parties shall not exceed the liability of these third parties towards the Supplier.
7. The Supplier shall not be liable for any shortcomings of third parties that it engages for carrying out this Agreement.
8. Insofar as fulfilment by the Supplier is not permanently impossible, the Supplier shall only be liable for an attributable shortcoming in fulfilling a obligation if the Other Party has declared the Supplier to be in default without delay and in writing stating precisely the nature of the shortcoming and has set a reasonable deadline to remedy the shortcoming and the Supplier also remains in attributable default in fulfilling its obligation after expiry of this deadline.
9. A condition for the right to compensation shall at all times be that the Other Party informs the Supplier of the damage in writing without delay, but no later than 14 days after the Other Party has become aware or should reasonably have become aware of the damage.



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10. Any legal action shall be instituted no later than one year after the timely reporting of the damage, subject to forfeiture of all rights.
11. The Other Party shall indemnify the Supplier against any type of liability that may rest on the Supplier vis-à-vis third parties with respect to Products that the Supplier has delivered or shall deliver. The Other Party shall reimburse the Supplier for the reasonable costs of defending against third-party claims.
12. The Supplier shall refrain from invoking any limitation on its liability and the Other Party is not obliged to indemnify the Supplier insofar as the damage results directly from willful intent or deliberate recklessness on the part of the Supplier or its executives.
13. This provision does not apply insofar as provisions of mandatory law prevent this.

Article 12: Industrial and intellectual property rights

1. EXSA Europe B.V. shall retain the right of ownership for any industrial and intellectual property rights (brands) expressly relating to products it has delivered.
2. The Other Party when using products supplied by EXSA Europe B.V. shall not be permitted to infringe on the industrial and intellectual property rights of a third party. The Other Party shall indemnify EXSA Europe B.V. against any claims from third parties arising from the infringement of industrial and intellectual property rights that are made using property supplied by EXSA Europe B.V., and that take place after EXSA Europe B.V. has supplied the property to the Other Party.

Article 13: Applicable law, disputes

1. Without prejudice to the contents of article 7, paragraphs 4 and 5 of these terms and conditions, the legal relationship between the Parties shall be governed by Dutch law with the inclusion of the Vienna Convention on Contracts for the International Sale of Goods.
2. Except where this is opposed by mandatory law, all disputes that may arise between the Parties in relation to or in connection with an Agreement and/or these terms and conditions shall in the first instance be settled exclusively by the Rotterdam Court (proceedings on the merits) or the Preliminary Relief Judge of the Rotterdam Court (summary proceedings and other preliminary relief), without prejudice to the Supplier's right to submit such a dispute to any other competent court.
3. Without prejudice to paragraph 2 of this article, the Supplier shall be entitled at all times to have such a dispute settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (Nederlands Arbitrage Instituut). The arbitral tribunal shall be composed of three arbitrators. The place of arbitration shall be Rotterdam. The arbitral procedure shall be conducted in English. The arbitral tribunal shall make its award in accordance with the rules of law.