

Vion's General Terms and Conditions in respect of livestock

Of: Vion Farming B.V., Vion Rundvee B.V., Vion Livestock B.V., with their registered offices in Boxtel, and other companies affiliated to Vion Fresh Meat West B.V., which have declared the present Terms and Conditions applicable

A General Terms and Conditions of Sale

ARTICLE 1

Applicability of these Terms and Conditions

These Terms and Conditions apply to each offer and each agreement in respect of livestock, between one of the above-mentioned companies, hereinafter referred to as: Seller, and a buyer to which Seller has declared these Terms and Conditions applicable, insofar as these Terms and Conditions have not been explicitly deviated from by parties. Application of the Buyer's general terms and conditions is explicitly rejected.

ARTICLE 2

Conclusion, modification of the agreement

1. All quotations are free of obligation, unless these contain a term for acceptance. If a quotation contains an offer that is free of obligation and this is accepted, Seller has the right to revoke the offer within two working days after receipt of the acceptance.
2. The purchase agreement is concluded as soon as Buyer and Seller have reached an agreement either verbally or in writing on that which is to be sold, the price and any special terms of delivery. Any additional arrangements or changes made later, as well as any written or verbal arrangements and/or promises by employees of Seller or third parties / intermediaries, shall bind the Seller only if these have been explicitly confirmed or are being carried out by Seller. With respect to activities for which, given their nature and scope, no quotation or order confirmation is sent, the invoice will also be considered an order confirmation, which is also deemed to reflect the agreement correctly and fully, unless the Buyer protests the contents of the invoice in writing within 8 days.

ARTICLE 3

Prices

The prices referred to in the quotation are stated in Dutch currency, unless otherwise agreed. The prices stated in the quotation are based on cost factors applicable at the time of the quotation. Seller is entitled to pass on cost increases in the purchase price before delivery has taken place. If the price increase exceeds 10%, the Buyer shall have the right to dissolve the agreement.

Unless otherwise agreed, the prices referred to in the quotation are carriage paid at the address designated by Buyer. Seller's deliveries are subject to the applicable VAT regulations.

ARTICLE 4

Payment

1. Unless otherwise agreed, payment is to be made without any discount by means of deposit or credit to a bank or giro account designated by Seller within eight days from date of invoice. Payment is to be made in Dutch currency unless otherwise agreed. After a period of eight days from the date of invoice or an otherwise agreed time of payment, the Buyer shall be in default. From the moment of default the Buyer shall owe interest on the amount payable equal to the statutory interest.
2. If one of the situations mentioned below should occur, Buyer shall be deemed to be in default and thus in breach of contract as referred to in Article 6.265 of the Dutch Civil Code, on the basis of which Seller shall be entitled to dissolve the agreement:
 - Buyer is declared insolvent, files a petition for suspension of payment, or a part or all of his property is attached.
 - Buyer dies or is placed under guardianship. In said cases Seller shall also be entitled to fully claim any amounts, which Buyer still owes and immediately to retrieve or have retrieved the item or items sold to Buyer.
3. Payments made by Buyer always serve first to settle all interest and costs due, and secondly payable invoices that have been outstanding for the longest time, even if Buyer states that the settlement relates to a subsequent invoice.

ARTICLE 5

Collection charges

1. If the Buyer is in default or fails to meet one or more of its obligations, all reasonable out-of-court costs to obtain settlement shall be borne by Buyer. In any case, the Buyer shall owe an amount of 15% of the invoice amount, with a minimum of € 300. If Seller demonstrates that higher costs, which were reasonably necessary, were incurred, these too shall qualify for compensation.
2. The Buyer shall owe Seller the legal costs incurred by Seller in all instances.

ARTICLE 6

Retention of title

1. All goods delivered and still to be delivered shall remain the exclusive property of the Seller until all claims that the Seller has or will have on Buyer, including in any case the claims referred to in Book 3, Article 92 paragraph 2 of the Dutch Civil Code have been fully paid.
2. As long as the ownership of the goods has not transferred to the Buyer, the Buyer cannot pledge the goods or grant third parties any other right thereto, save within the normal operations of its business. Upon the Seller's first request the Buyer will assist in the creation of a right of pledge on the claims that the Buyer acquires or will acquire on its customers pursuant to the resale of goods.
3. The Buyer will store the goods which have been delivered under retention of title with due care and as recognisable property of the Seller.

4. The Seller is entitled to retrieve the goods delivered under retention of title and still present at the Buyer's premises if the Buyer fails to meet its obligations to pay or has current or impending financial difficulties. The Buyer will at all times grant the Seller free access to its sites and/or buildings to inspect the goods and/or to exercise the Seller's rights.
5. The aforementioned provisions included under paragraphs 1 through 4 shall not affect the other rights of the Seller.

ARTICLE 7

Delivery and risk

1. Delivery of the goods purchased in the Netherlands will be effected at the time of actual supply at the house/company of the Buyer and unloaded from the means of transport, unless explicitly agreed otherwise. If Buyer arranges transport himself, delivery will be made at the time the animals are in front of the tailboard for transport.
2. Unless explicitly agreed otherwise, Seller will have the right to deliver the animals in partial deliveries, whereby each delivery will be invoiced separately.
3. The risk of the goods purchased shall pass at the moment of the actual supply at the destination when they are unloaded from the means of transport, even if the Buyer is prevented from taking delivery of the animals purchased or refuses to take delivery. In the case of sale by auction, delivery and transfer of the risk takes place on location.
4. With respect to deliveries outside the Netherlands the destination will be agreed upon per transaction.
5. The Buyer is obliged to accept the delivery of the animals purchased when these are supplied to Buyer. If the Buyer refuses delivery, the animals will be kept at the Buyer's disposal by Seller at Buyer's expense and risk for a week at most. After expiry of this term Seller is entitled to sell to a third party. Any loss of profits and expenses in that respect will be for the Buyer's account. The agreed delivery time is not a final deadline, unless explicitly agreed otherwise. In the event of late delivery the Buyer must give Seller written notice of default. The agreed delivery time will be observed by Seller in as much as possible.

ARTICLE 8

Force majeure

1. In these General Terms and Conditions force majeure means: any involuntary or unforeseen circumstances on the part of Seller as a result of which the Buyer can no longer reasonably require fulfilment of the agreement by Seller.
2. Force majeure includes, among other things, walkouts, excessive absenteeism of Seller's staff, transport difficulties, fire, government measures including in any case the fixing of quotas, sales bans and breakdowns at Seller's premises or at those of suppliers of Seller, exceptional weather conditions, catastrophes, war, riots, acts of war, strikes, lockouts, work-to-rule, as well as any unforeseeable stagnation in the regular course of affairs in the Seller's business or in the businesses of Seller's suppliers, as a result of which Seller cannot meet its obligations to the Buyer.
3. If an incident of force majeure occurs, Seller will be entitled to suspend the performance of the agreement or to dissolve the agreement definitively. Consultation will be held with the Buyer in regard to this.
4. Seller is entitled to claim payment of the activities carried out in the execution of the relevant agreement, before the situation of force majeure occurred.

ARTICLE 9

Defects, period for complaints

1. The Buyer is obligated to inspect the animals delivered or to have such animals inspected immediately upon delivery for any visible defects. The Buyer is to indicate or have someone indicate any deficiencies or defects on the delivery form. Any visible defects are to be reported to Seller by Buyer by telephone or fax within 24 hours at the latest after the actual delivery stating the nature of the complaints. Such report will be confirmed by Buyer in writing within 48 hours after the actual delivery, failing which the Buyer is deemed to have approved the animals that have been purchased.
2. The Buyer is to report non-visible defects to Seller in writing within 24 hours after discovery, yet at the latest within 6 weeks after the Buyer could have discovered the defect stating the nature of the complaints, in the absence of which the Buyer can no longer exercise its claims on Seller.
3. The lodging of claims does not release the Buyer from its payment obligations towards Seller.
4. If the complaint is found to be justified by Seller, Seller will be entitled to replace the animals delivered or to credit the purchase price without the Buyer being able to exercise any other right to any compensation whatsoever.
5. Complaints regarding invoices are to be lodged within 8 days after the date the invoices were sent.

ARTICLE 10

Liability

Seller shall be liable to the Buyer only in the following circumstances:

1. In respect of damage as a result of defects the liability is limited to what has been set out in Article 9 of these Terms and Conditions;
2. In respect of damage caused by intention or gross negligence on the part of Seller, its manager or its employees;
3. Seller's liability is limited to the amount of the payment made by the insurance company insofar as this liability is covered by its insurance policy;
4. If the damage is not insured, the liability is limited to the amount of the loss for which the Seller should have been reasonably insured, according to normal business practices.
5. Seller is not liable for damage caused by Buyer's incompetence. Under no circumstance shall Seller and/or third parties engaged by Seller be liable for loss of profits or other consequential loss. The damage to be compensated by Seller will be mitigated if the price to be paid by Buyer is small in proportion to the extent of the damage sustained by Buyer. In particular, Buyer shall indemnify Seller against all claims of third parties referred to under the Articles 6:179 to 6:181 of the Dutch Civil Code (legal liability for damage caused by animals).

ARTICLE 11

Disputes

Only the competent court in the district in which Seller has its registered office is competent to take cognisance of disputes about or in connection with an agreement between Seller and Buyer, also as far as its conclusion is concerned. Seller, however, retains the right to summon Buyer before the court that is competent by law or under applicable international treaty.

ARTICLE 12

Applicable law

Dutch law shall apply to each agreement between Seller and Buyer.

B General Terms and Conditions of Purchase

ARTICLE 1

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ARTICLE 2

Conclusion, modification of the agreement

1. All quotations are free of obligation, unless these contain a term for acceptance. If a quotation contains an offer which is free of obligation and this is accepted, Buyer has the right to revoke the offer within two working days after receipt of the acceptance.
2. The purchase agreement is concluded as soon as Buyer and Seller have reached an agreement, either verbally or in writing, on the animal or animals sold, the price and any special terms of delivery. Any additional arrangements or changes made later, as well as any written or verbal arrangements and/or promises by employees of Buyer or third parties/intermediaries, bind Buyer only if these have been explicitly confirmed or are being carried out by Buyer. With respect to activities for which, given their nature and scope, no quotation or order confirmation is sent, the settlement/the supply document is also considered to be the order confirmation, which will also be deemed to reflect the agreement correctly and completely.

ARTICLE 3

Prices

1. Unless stated otherwise, all quotations are subject to change in prices.
2. The purchase price of the animal or the animals will be determined on the basis of the quotations at the time of delivery.
3. Buyer is entitled to apply deductions to the purchase price. These deductions are stated in the Buyer's purchase and delivery rates, which are determined periodically, as a rule once a year. On the Seller's first request a copy of these rates will be provided for inspection by Buyer's representative.
4. Buyer's deliveries are subject to the applicable VAT regulations. For more detailed information please refer to the rates referred to under 3.3.

ARTICLE 4

Payment

Buyer is entitled to pay any amount that the Seller owes another company affiliated to Buyer to Seller to this company (a list of companies affiliated to Buyer is available and will be sent free of charge to Seller on request). Buyer is discharged of the amount of such payment towards Seller. Buyer will inform Seller when and to what extent it will make use of this right.

Notwithstanding Buyer's other rights, Buyer is entitled to suspend payment as soon as and as long as there is a failure or impending failure in the fulfilment on Seller's part an obligation to Buyer including the failure to provide documents or the late/overdue provisions of documents.

Buyer will not be in default in respect of payment of the purchase price until, for reasons attributable to Buyer, Buyer fails to pay even after another term for payment has been given in writing to Buyer by Seller.

ARTICLE 5

Delivery

1. Delivery occurs ex farm ("af boerderij"). The risk of the animal or animals transfers at the moment of the actual transfer, viz. unless otherwise agreed in writing, at the time at which the animal or animals are taken over for transport and in the case of transport by cattle-truck, at the time at which the animal is in front of the tailboard and has intact been accepted to transport by the transporter. If Seller arranges transport himself, the risk transfers at the time of the actual delivery at the agreed destination, unloaded from the means of transport.
2. The Buyer is not obliged to accept the purchased animals, if at the time of delivery the animals prove to be unsuited to transport in the opinion of Buyer or the transporter, or do not meet the Buyer's reasonable standards, or Seller is incapable of handing over those documents that it is required to provide to Buyer under the contract of sale or by law.
3. In the event of sale of animals to be slaughtered the ownership shall not pass to Buyer until the slaughter result has been approved and weighed. Until that time Buyer will store the goods acquired on behalf of Seller. The Seller's risk relates to the quantity of approved meat realised. All rejection costs and/or related costs shall be borne by Seller.
4. The provisions in the previous paragraphs will not prejudice Buyer's other rights under the law in respect of the Seller's failure.

ARTICLE 6

Force majeure

1. In these General Terms and Conditions force majeure means: any involuntary or unforeseen circumstances on the side of Buyer as a result of which the Seller can no longer reasonably require Buyer's fulfilment of the agreement.
2. Force majeure includes: walkouts, excessive absenteeism of Buyer's staff, transport difficulties, fire, government measures including in any case import and export bans, fixing of quotas, sales bans and breakdowns at Buyer's premises or at those of suppliers of Buyer; exceptional weather conditions, catastrophes, war, riots, acts of war, strikes, lockouts, work-to-rule, as well as any unforeseeable stagnation in the regular course of affairs in the company of Buyer or of suppliers of Buyer, as a result of which Buyer cannot fulfil its obligations towards Seller.
3. If an incident of force majeure occurs, Buyer will be entitled to suspend the performance of the agreement or to dissolve the agreement definitively. Consultation will be held with Seller in regard to this.
4. Buyer is entitled to claim payment of the activities carried out in the execution of the relevant agreement, before the situation of force majeure occurred.



ARTICLE 7

Liability tor defects

1. Acceptance of the goods purchased which have been delivered does not imply approval of the goods sold. Seller continues to be liable towards Buyer for defects in the goods delivered and the resulting damage to Buyer. However, Buyer is required to report a defect or damage to Seller within six weeks after Buyer could have discovered the defect.
2. For ten years after delivery Seller is to indemnify Buyer against claims of third parties to compensate damage related to the administration of substances with harmful effects, including pharmaceutical products and nutritional substances, to the animals involved prior to the delivery. Purchaser is to inform Seller of claims asserted by third parties related to the administration of such substances.

ARTICLE 8

Termination of the agreement

In the event of breach on the part of Seller, Buyer is entitled to terminate the agreement with immediate effect. All damage resulting therefrom will be borne by the Seller.

ARTICLE 9

Disputes

Only the competent court in the district in which Buyer has its registered office will take cognisance of disputes about or in connection with an agreement between Seller and Buyer, also as far as its conclusion is concerned. However, Buyer continues to be entitled to summon Seller before the court that is competent by law or under applicable international treaty.

ARTICLE 10

Applicable law

Dutch law shall apply to each agreement between Seller and Buyer.