

## **General Terms and Conditions for sale of Mr. Nishikigoi**

### **1. Exclusive applicability**

- 1.1 These general terms and conditions apply to all contracts and offers for contracts with Mr. Nishikigoi for the delivery of goods and services by Mr. Nishikigoi to its customer (hereinafter to be referred to as 'Customer') and to supplementary and subsequent deliveries.
- 1.2 All other general terms and conditions are excluded. Any stipulations deviating from these general terms and conditions are only applicable after explicit written confirmation by Mr. Nishikigoi.

### **2. Offers**

- 2.1 All offers by Mr. Nishikigoi are non-binding, all prices and delivery times in Mr. Nishikigoi's offers are indicative and subject to change by Mr. Nishikigoi.
- 2.2 Unless explicitly included, prices stated in Mr. Nishikigoi's offer are based on delivery ex Mr. Nishikigoi works and exclude taxes, packaging and handling, security and transport, insurance and mandatory health checks and documentation costs, which can be charged to the Customer in addition to the agreed price.

### **3. Terms of delivery and force majeure**

- 3.1 Delivery dates and periods provided by Mr. Nishikigoi are on an approximate and non-binding basis, on the assumption that delivery is possible under normal conditions.
- 3.2 Excess of indicated delivery dates and periods will in no event entitle the Customer to damages or termination.
- 3.3 Goods are deemed to be delivered and for the Customer's risk as of arrival in the first airport after air transport from Japan. From that moment on, the goods and transport are for the account and risk of the Customer.
- 3.4 Mr. Nishikigoi is entitled to suspend performance of its obligations if it is temporarily prevented from performing its contractual obligations to the Customer due to force majeure.
- 3.5 Goods that cannot be delivered to the Customer at the agreed time and place, will be stored at the Customer's risk and expense.
- 3.6 Force majeure is understood to mean, inter alia, the circumstance of failure by suppliers, subcontractors or transport companies engaged by Mr. Nishikigoi in the execution of the Customer's order, weather conditions, natural catastrophes, animal diseases, fire, power failure, loss, theft or destruction of goods, road blocks, strikes or work stoppages and import or trade restrictions.
- 3.7 If Mr. Nishikigoi's temporary inability to perform lasts for more than six months, it will no longer be entitled to suspend performance. On expiry of this deadline, the Customer and Mr. Nishikigoi may terminate the agreement with immediate effect, but only as regards such part of the obligations that has not yet been performed.
- 3.8 In the event of force majeure where performance is or becomes permanently impossible, both parties are entitled to terminate the agreement with immediate effect as regards such part of the obligations that has not yet been performed.
- 3.9 None of the parties will be entitled to compensation for damage as a result of suspension or termination as referred to in this article.

### **4. Payment terms and retention of title**

- 4.1 Mr. Nishikigoi's invoice are to be paid by the Customer in full eight days in advance of shipment, unless agreed in writing otherwise.
- 4.2 Irrespective of agreed payment conditions, the Customer is obliged upon the first demand of Mr. Nishikigoi to provide such security for payment as Mr. Nishikigoi deems sufficient. If the Customer does not comply within the requested period, Mr. Nishikigoi is entitled to terminate the agreement and to recover its damage from the Customer.
- 4.3 Any right to set off or suspend payments by the Customer to Mr. Nishikigoi is excluded.
- 4.4 In case receipt of payment by Mr. Nishikigoi is delayed, Mr. Nishikigoi is entitled to cancel the order and claim full compensation or execute the order. In latter case previously agreed delivery times shall be non-binding, as quarantine and booking of transport can only start upon receipt of payment.
- 4.5 In case of unforeseen increase of price components, causing an increase of Mr. Nishikigoi's cost level after the order and before delivery, Mr. Nishikigoi has the right to charge the Customer for the additional costs.

- 4.6 Mr. Nishikigoi will retain ownership of any goods delivered as long as the Customer has not fully fulfilled its obligations under this agreement or other agreements with Mr. Nishikigoi, and has not paid debts to Mr. Nishikigoi that have arisen due to non-performance by the Customer of the aforementioned agreements, such as damage, penalties, interest and costs.
- 4.7 As long as the goods delivered are subject to Mr. Nishikigoi's retention of title, the Customer may not encumber or alienate the goods other than in the ordinary course of its business, and he must store them separately from other goods.
- 4.8 Once Mr. Nishikigoi has invoked its retention of title, it may take possession of the goods delivered. The Customer will lend full cooperation to this end.
- 4.9 If payment is not made by the Customer within the agreed payment deadline, he will owe to Mr. Nishikigoi:
  - a. interest at an interest rate of 12% per annum. When calculating interest, part of a month is regarded as a whole month;
  - b. all judicial and extrajudicial costs, with a minimum of € 250.

## **5. Warranty and liability**

- 5.1 Mr. Nishikigoi guarantees that on delivery livestock is alive and free of diseases as far as perceptible with the naked eye, provided however that for livestock losses of 5% of the order value are normal and exclusively for the Customer's risk.
- 5.2 No claims shall justify postponement of the Customer's payment obligations.
- 5.3 Any warranty claim must be made in writing to Mr. Nishikigoi immediately after a defect is discovered or could reasonably have been discovered by the Customer. On penalty of forfeiture of all rights, the Customer must report any claim in writing to Mr. Nishikigoi within two weeks after delivery.
- 5.4 Mr. Nishikigoi shall never be liable for any damages of the Customer exceeding the agreed order price.

## **6. Customer responsibility**

- 6.1 The Customer is expected to be knowledgeable in keeping and treating livestock and shall at all times be responsible for proper, careful and expert treatment of livestock.
- 6.2 The Customer shall strictly observe Mr. Nishikigoi's instructions on proper treatment and KHV prevention as provided by Mr. Nishikigoi. Livestock from different breeders must be kept separated during quarantine period.
- 6.3 Mr. Nishikigoi shall not be liable for any damages following improper handling or non-observation of treatment instructions by The Customer.

## **7. Applicable law and competent court**

- 7.1 All agreements made with Mr. Nishikigoi are exclusively governed by Dutch law.
- 7.2 The Vienna Sales Convention (C.I.S.G.) does not apply, nor do any other international regulations the exclusion of which is permitted.
- 7.3 Disputes will be heard exclusively by the Dutch civil court with jurisdiction over Mr. Nishikigoi's place of establishment, unless this is contrary to mandatory law. Mr. Nishikigoi may deviate from this rule of jurisdiction and apply the statutory rules of jurisdiction.