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JAGUAR

• FRESH •

GENERAL PURCHASE CONDITIONS

FOR JAGUAR, THE FRESH COMPANY B.V.

ARTICLE 1. DEFINITIONS

The following definitions shall apply for the purposes of these general terms and conditions:

- 1.1. Buyer: Jaguar, the fresh company B.V. having its registered offices in Breda and principal place of business at Selderijweg 90D, 2988 DG Ridderkerk, as well as all of the businesses affiliated with this company.
- 1.2. Supplier: every natural person or legal entity with which an agreement has been concluded for the supply of goods or services.
- 1.3. Parties: the Buyer and the Supplier.

ARTICLE 2. FORMATION OF THE AGREEMENT

- 2.1. These general purchase conditions form part of every agreement in which the businesses mentioned under Article 1.1. are acting as the buyer of goods and/or services, as well as a contracting party for work.
- 2.2. In the event the Supplier declares its general terms and conditions to apply to the exclusion of the Buyer's general terms and conditions, the Supplier's acceptance of the order shall be deemed to imply an acceptance of the Buyer's general purchase conditions resulting in the simultaneous revocation of the Supplier's own general terms and conditions.
- 2.3. All information, including quotes, price lists, etc. which the Supplier makes available to the Buyer, must be considered at all times to be an offer made to the Buyer free from obligation. This shall be the case with the exception of and to the extent that it is agreed otherwise between the Parties in a previously concluded framework agreement or purchasing agreement.

2.4. Orders and offers submitted by the Buyer to the Supplier may only be accepted fully and in an unmodified form by the Supplier.

2.5. Offers or requests for quotes from the Buyer are free from obligation at all times; the Supplier shall never be entitled to derive any rights from these. An agreement shall not be created between the parties after the Supplier has received confirmation thereof in writing from the Buyer. The Buyer shall also have the right at all times to cancel or modify its order or quote within two days of the receipt thereof from the Supplier, without the Buyer being obligated to pay any compensation for damages to the Supplier. The day upon which the Buyer sends the cancellation or modification to the Supplier shall be considered to be the effective date/time of the suspension or modification.

2.6. Without prejudice to the above, modifications in the order shall only become effective if they have been agreed upon in writing.

ARTICLE 3. THE AGREEMENT

3.1. Every delivery, quote, offer, agreement as well as every other communication by the Buyer and the Supplier must, at all times, satisfy the following conditions, with the exception of cases in which deviations from these are agreed upon between the Parties in advance and in writing:

3.1.1. The Buyer is HACCP and ISO 9002 certified and is specialised in the trade in and the import and export of vegetables, fruit and earlies. It strives to uphold the highest demands with regard to food safety, durability and quality of the goods it buys and sells. All of the Supplier's goods and services which are delivered to the Buyer must therefore also be of the utmost quality and freshness; these goods and services must also satisfy the specifications and requirements issued such as these are formulated by the Buyer. If the agreement implies that the quality and/or freshness of the goods to be delivered shall be at the Supplier's discretion, it shall be bound, at all times, to choose goods of the highest quality and highest degree of freshness which thus satisfy any specifications issued by the Buyer.

3.1.2. Statements made by the Parties with regard to the quality, quantity, sizes, weight, colour, composition, shape, dimensions, transport, packaging, temperature (during transport, interim storage and at delivery), last freshness date and the like form integral components of that which has been agreed upon and must therefore be complied with in full by the Supplier at the time of delivery.

3.1.3. The Supplier furthermore guarantees at all times that its statements and actual delivery with regard to the features mentioned in the previous paragraph of the goods to be delivered satisfy governmental and other statutory regulations and requirements valid at that time.

3.1.4. The delivered goods must always correspond to any samples and/or specifications previously shown with respect to which an agreement has been reached between the Parties.

3.1.5. The Supplier shall provide the Buyer with the guarantee that it will satisfy the requirements as specified under paragraphs 1 through 4 of this article. Instructions and/or indications given by the Buyer, for example with regard to the origin of the goods to be delivered, shall not affect these guarantees and obligations.

3.1.6. The agreed upon price may not be modified unilaterally by the Supplier and shall also be deemed to include the costs of adequate packaging. The agreed upon price may not be increased without the Buyer's written permission. The Buyer shall never be charged for costs relating to (previously issued) quotes or other offers. Unless agreed otherwise, all of the prices issued by the Supplier shall be deemed to apply to delivery on a DDP basis (Delivered Duty Paid, Incoterms 2000) at a delivery address to be indicated by the Buyer. All of the costs owed by the Supplier after the purchase of the goods up to the delivery shall be at its own expense and risk. If and to the extent that such costs are paid by the Buyer, these shall qualify as an advance payment to the Supplier.

3.1.7. The Buyer shall have the right at all times to demand a bank guarantee from the Supplier, issued by a bank with its registered offices in the Netherlands, as security for the fulfilment of the agreement by the Supplier. This bank guarantee must be prepared in accordance with a model to be drawn up by the Buyer.

ARTICLE 4. PACKAGING

4.1. All of the goods must be packaged adequately, taking into consideration the means of transport to be used and the transit times involved. The goods must arrive at their destination in proper condition under the transport conditions customary for the specific type and quality of the goods involved. The packaging must be suitable for the (customary) storage of food. If and to the extent that the goods are not properly packaged, the Buyer has the right to return these inadequately packaged goods to the Supplier. The Supplier is therefore fully liable for all of the damages suffered by the Buyer, which are caused directly or indirectly by this faulty packaging.

4.2. The Buyer has the right at all times to return packaging materials to the Supplier. Packaging materials shall be returned at the risk and expense of the Supplier to the address indicated for these purposes by the Supplier, and in the absence of this, the closest address of one of the Supplier's facilities.

4.3. If the Buyer provides instructions in advance with regard to the method of packaging and the materials to be used, these instructions must be followed by the Supplier and these will be considered to form part of the agreement.

ARTICLE 5. GUARANTEE

5.1. The Supplier guarantees that at the time of delivery, the goods comply fully with the requirements as provided for in Articles 3.1.1 through 3.1.7.

5.2. If prior to or at the time of delivery, the Buyer determines as the result of an inspection of the goods that the Supplier's performance does or will not correspond to the order placed by the Buyer, and the Buyer notifies the Supplier of this fact, the Supplier is bound to take any measures necessary to still comply with that which was agreed upon between the Parties.

5.3. If the Supplier fails in any manner whatsoever in the fulfilment of its obligations, the Buyer shall declare the Supplier to be in default in writing and will provide it with a reasonable term in which to still fulfil its obligations with the exception of the situation described under Article 8.2. Should the Supplier still fail to fulfil its obligation to rectify the shortcoming, it will be in default and shall be liable for any and all damages the Buyer suffers as a result.

ARTICLE 6. MODIFICATIONS

6.1. The Buyer has the right to modify the quality and/or the quantity or the nature of the goods. This authority to introduce modifications also applies to the nature and extent of the agreement. All modifications must be set out in writing between the Parties. The Supplier is not entitled to amend the agreement without obtaining prior written permission to do so from the Buyer.

ARTICLE 7. INSPECTION AND EVALUATION

7.1. Inspection and/or quality control inspections of the delivered goods may be performed by the Buyer or third parties appointed for this purpose by the Buyer before, during and after the actual delivery.

7.2. The Supplier undertakes to cooperate in every way in this regard. This includes the obligation to grant access to the storage facility for the goods as well as to make any necessary documentation and information available at its own expense.

7.3. The costs of these inspections and/or quality control checks shall be borne by the Supplier. Travel and hotel expenses incurred by the Buyer or third parties appointed by the Buyer shall be at the Buyer's expense.

7.4. If the goods are refused or rejected by the Buyer, in whole or in part, on the basis of the inspection or quality control check referred to in this article, these goods shall be at the expense and risk of the Supplier as of that moment.

8. DELIVERY

8.1. The term of delivery or the date of delivery shall be specified as such in the Buyer's order as the day, month, year and if required, the time at which the goods must be delivered by the Supplier during the Buyer's normal opening hours. If the delivery time or term of delivery is specified or if the date which the delivery is to be made is not specified, the delivery term shall be determined in consultation between the Parties. After receipt of the order from the Buyer, the Supplier shall contact the Buyer immediately in the event the order does not specify a term of delivery. If the Supplier fails to fulfil this obligation, the Buyer has the right to dissolve the agreement by providing written notification without being bound to pay any compensation whatsoever.

8.2. Agreed upon terms of delivery or dates and/or times of delivery are firm deadlines. If the Supplier remains in default with regard to its delivery obligation to deliver at the agreed upon time, default by operation of law shall therefore commence. In that case, the Supplier is liable for all of the resulting damage suffered by the Buyer and any of the Buyer's customers. If the Supplier does in fact deliver, the mere acceptance of the delivery by the Buyer does not imply that the Supplier has fulfilled all of its obligations as a result.

8.3. If and to the extent that the Buyer has expressed a preference for a time/date of delivery in its order to which the Supplier has not made an objection in writing, this preferred date shall qualify as the agreed upon date of delivery.

8.4. The Supplier is liable for all damages, caused directly or indirectly by the Supplier's failure to deliver or by late delivery.

8.5. If not otherwise agreed upon in writing, the Supplier will arrange for the transport of the goods. To this end, the Supplier will make use of its own means of transport or third parties it contracts for this purpose at its own risk and expense. If the Supplier arranges for third parties to transport the goods, the delivery will take place at the time immediately after the goods have reached the Buyer's agreed upon delivery address and only once the Buyer has provided notification that it can accept delivery.

8.6. The Buyer shall be considered to make a reservation with every acceptance of a delivery with regard to the quality and contents of the delivery. If goods are delivered which do not conform to the agreement, the Buyer shall have the right to file a claim with the Supplier at the time the Buyer becomes aware of this shortcoming. The Buyer shall notify the Supplier in this regard as quickly as is reasonably possible.

8.7. Partial deliveries and deliveries prior to the agreed upon date, for which the Buyer has not granted permission in writing, may be subject to return without prior notification and at the risk and expense of the Supplier.

ARTICLE 9. PAYMENT

9.1. Unless otherwise agreed upon in writing, the Buyer shall satisfy its payment requirement within 30 days of the delivery of the goods and receipt of the invoice relating to this delivery. If and to the extent that the Buyer has submitted a claim to the Supplier with regard to that which has been invoiced or a portion thereof, the Buyer shall have the right to suspend its payment obligation. Furthermore, the Buyer has the right to return incorrectly addressed or otherwise incorrect invoices back to the supplier without being bound to execute any payment thereof.

9.2. If and to the extent that the Buyer executes payments to the Supplier before these payments were due and payable pursuant to paragraph 1 of this article, these payments must be repaid to the Buyer immediately and without any setting off by the Supplier. No legal consequences may be attached to the payment by the Buyer nor may the proper fulfilment of the agreement by the Supplier be implied from this payment.

The Supplier must subtract every payment made by the Buyer from the debt such as specified with this payment by the Buyer. The specification may be provided prior to, together with or after the relevant payment.

9.3. The Buyer shall have the right at all times to offset claims from the Supplier which are due and payable with every claim the Buyer has with respect to the Supplier and any future claims or those which are not yet due and payable.

ARTICLE 10. LIABILITY

10.1. If the Supplier suffers damage, regardless of the cause, the Buyer may never be held liable for an amount that exceeds the purchase price of the goods with regard to the agreement from which the damage ensues.

10.2. If the Supplier is of the opinion that the Buyer has fallen short in the fulfilment of its obligations the Supplier must first give notice of default and then give the Buyer a reasonable term of no less than eight working days in order to rectify the apparent failure in the fulfilment. The Buyer is at that time still entitled to fulfil the agreement and satisfy its obligations without being bound to pay any compensation for damages nor may it be implied from this that the Buyer has remained in default with regard to the fulfilment of its obligations.

10.3. At all times, the Buyer has the right to refuse delivery of defective goods or to return them either to the Supplier or to the third parties it has contracted for transport. In that case, the Buyer is not required to ensure that the goods continue to exist nor to guarantee the (qualitative or quantitative) maintenance of the goods.

10.4. The Supplier is obligated to insure the goods to be delivered for the usual risks as well as those occurring during transport and storage. The Supplier is not permitted to pledge or assign any insurance claim arising from this or to furnish it as security to a third party. The Supplier hereby certifies that it is willing to transfer these insurance claims to the Buyer upon first request and free of charge.

10.5. If and to the extent that the Buyer compensates its customers for their damage, regardless of whether it is bound to do so by law, damage which has been caused directly or indirectly by a shortcoming in the fulfilment of the agreement by the Supplier, the Supplier is obligated to compensate the Buyer for this damage, increased by all of the interest and costs incurred by the Buyer, regardless of the manner in which or the reason for which this compensation is due and regardless of the fact whether or not the Supplier was aware of the apparent defects in the delivered products or in the fulfilment of the agreement.

10.6. The Supplier is obligated to inform the Buyer, if possible in advance, and to provide it with all of the information concerning the products, their origin and their quality. The Supplier furthermore shall guarantee that each delivery will conform to the applicable statutory provisions in force in the country of origin, countries of transit and the country of delivery as well as to certify that it will be willing now for then to grant any cooperation in the event of emergencies and recall procedures qualified as such by the Buyer. The Supplier shall never be entitled to any right to suspend performance or right of retention.

10.7. If the Supplier fails to accomplish that to which it is obligated or fails to accomplish it entirely or on time, the Buyer shall have the right to dis-solve the relevant agreement without judicial intervention either partially or in its entirety. If the Buyer dissolves the agreement partially, then this dissolution can also affect that portion that was delivered on time, but which as a result of the dissolution can no longer be used efficiently. The above does not affect the Buyer's right to demand performance from the Supplier.

10.8. In the event of the dissolution of the agreement, the Buyer is entitled to:

- a) send the goods already delivered back to the Supplier at the Supplier's risk and expense;
- b) to be reimbursed by the Supplier for the additional expenses which the Buyer must incur for the reasonable replacement of the goods which were not received or retained by the Buyer. If a performance deviates from that which was agreed upon and, after having been declared to be in default, the Supplier has not rectified the shortcomings within the period of time allotted for this by the Buyer, the Buyer has the right to restore the delivered goods to the agreed upon condition at the Supplier's expense, or to have this done. The above applies without prejudice to the Buyer's right to full compensation for damages.

ARTICLE 11. CONFIDENTIALITY

11.1. The Supplier guarantees the Buyer that it will observe the secrecy of any company information which has become available to it within the scope of the agreement and shall also impose this obligation upon its employees.

11.2. The Supplier shall be permitted to inform third parties of the existence of any agreement with or delivery to the Buyer only after receiving prior written permission to do so from the Buyer. The Buyer has the right to attach conditions to this permission.

ARTICLE 12. INTELLECTUAL PROPERTY

12.1. The Supplier guarantees that the goods or packaging materials it supplies which do not originate from the Buyer do not violate any right of intellectual property including at a minimum trade names, copyrights, model rights, trademarks and patents.

The Supplier shall release and indemnify the Buyer at the time the Buyer is confronted with any claim or demand that the used materials or goods originating from the Supplier infringe upon any rights belonging to a third party.

12.2. The Supplier guarantees the Buyer that it will not infringe upon the intellectual property rights belonging to the Buyer including, at a minimum, the trade name and brand names belonging to the Buyer including in any case 'Jaguar'. The Supplier is only permitted to use the Buyer's trademarks and trade names if and to the extent that this is necessary for the execution of the agreement.

12.3. The Supplier is not permitted to use the Buyer's trade names and/or trademarks in any way outside of the scope of the agreement, for example for marketing purposes, supply, public relations or otherwise.

If the Buyer determines that the Supplier, in consideration of all of the above, has used the Buyer's trade names or trademarks without authorisation, the Buyer shall have the right to dissolve all of the agreements with the Supplier valid at that time without being liable to pay any compensation to the Supplier for this. On the basis of this unauthorised use, the Supplier is liable and will have to compensate the Buyer for all of the direct and indirect damage it has suffered as a result. In addition, with regard to such a situation, the Parties agree that the Supplier shall pay the buyer a fixed compensation for damages (not as a penalty) in the amount of USD 20,000 (in words: twenty-thousand United States dollars) for every violation of that which is provided for in this article, unless the Buyer notifies the Supplier in writing that it wishes to demand the full compensation for damages from the Supplier. The profit generated as a result of the Supplier's unauthorised infringement shall be included in the damages suffered by the Buyer in such a situation.

ARTICLE 13. TRANSFER

13.1. The Supplier is not permitted to transfer rights and obligations arising from the agreement to third parties, in whole or in part, without prior written permission from the Buyer.

13.2. The Supplier is not permitted to transfer the fulfilment of the agreement to third parties, in whole or in part, without prior written permission from the Buyer.

ARTICLE 14

14.1. If the Supplier fails to fulfil any of the obligations arising for it from this agreement or from these general terms and conditions, or fails to fulfil them properly or in a timely manner, as well as in the case of its bankruptcy, suspension of payments or placement under guardianship, or in the event of attachment or liquidation of the Supplier's company, the Buyer is, at its discretion, and without being obligated to pay compensation for damages without prejudice to the other rights to which it is entitled, entitled to dissolve the agreement in whole or in part or to suspend the (further) fulfilment of the agreement.

14.2. In these cases, the Buyer is also entitled to demand the immediate settlement of all of that which it is owed.

14.3. If, as a result of one or more circumstances, which are not at the Buyer's expense, including the circumstances mentioned in the following paragraph, partially or completely prohibit proper fulfilment by the Buyer, be it on a permanent or temporary basis, the Buyer is entitled to dissolve the agreement without being obligated to pay the Supplier any compensation for damages.

14.4. Circumstances which are not at the Buyer's expense include any acts, with the exception of intentional or conscious recklessness, of persons contracted by the Buyer in the fulfilment of the obligation, strikes, amended laws or regulations, employee lock-outs, illness, import, export or transit bans, transport problems, failure to comply with the obligations imposed by suppliers, disruptions in production, natural or nuclear disasters, acts of war and/or terrorist attacks or the threat thereof.

ARTICLE 15. TRANSFER OF OWNERSHIP

15.1. The right of ownership to the Supplier's performance shall transfer to the Buyer at the time of delivery, such as this has been agreed for the relevant order.

15.2. The Buyer's order or the agreement shall never imply a transfer of any rights or licences for intellectual property by the Buyer to the Supplier.

ARTICLE 16. CODE OF CONDUCT

16.1. The Supplier is not permitted to influence the independence and/or objectivity of relevant government agencies or persons employed there or by private inspection companies. The Supplier is only permitted to provide all of the necessary information to the above parties in order to allow them to form an independent assessment.

16.2. The Supplier is not permitted to provide or hold out the prospect of bonuses, commission, gifts or other privileges, to the Buyer's agents or employees, regardless of their position, without prior written permission from the Buyer. The Supplier is not permitted to employ the Buyer's personnel or to approach them for this purpose without prior written permission from the Buyer. The Buyer may attach conditions to the granting of this permission including a request for the compensation for any damages suffered as a result of these acts.

16.3. If the Supplier remains in default with regard to fulfilling the obligations formulated in this article or threatens explicitly to deviate from these, the Buyer shall sever the commercial relationship with the Supplier, without prejudice to the Buyer's right to demand the payment of full compensation for damages from the Supplier in this regard.

ARTICLE 17. OTHER PROVISIONS

17.1. If one of the provisions or part of the provisions contained in these general terms and conditions becomes null and void and/or is in violation of the law, the Buyer shall have the right to formulate a new provision which shall be considered to form part of the agreement, the nature and purpose of which shall resemble that of the nullified provision as closely as possible.

17.2.1. The contents of these conditions may be amended from time to time by the Buyer. Before an amended version becomes effective, the contents of this amended version shall be provided to the Buyer's customers and suppliers, in which an indication shall be given of the effective date for the amended conditions.

ARTICLE 18 APPLICABLE LAW

18.1. All of the agreements, orders, quotes, etc. to which these conditions apply, as well as the conditions themselves, are subject exclusively to the laws of the Netherlands, with the exception of the Vienna Sales Convention (CISG).

18.2. Without prejudice to the Buyer's right to apply to a court which is competent on the grounds of any statutory regulation, the only competent Court is that within which the district of Ridderkerk is located.

These General Purchase Conditions were filed with the registrar of the District Court of Rotterdam on 25 May 2007 and with the Chamber of Commerce in Rotterdam, the Netherlands.

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