

## Article 1: definitions

In these general terms and conditions of sale (“these terms and conditions”), the following terms shall have the meanings set out below:

- SFG:** one or more of the Dutch companies forming part of the Staay Food Group, including: Staay Food Group B.V. (formerly Staay-Hispa B.V.), having its registered office in Ridderkerk and its principal place of business in Papendrecht, Chamber of commerce number 24150290; Staay - Van Rijn B.V., having its registered office and principal place of business in Grubbenvorst (Municipality Venlo), Chamber of Commerce number 14620968; Staay Export B.V., having its registered office in Barendrecht and its principal place of business in Alblasterdam, Chamber of Commerce number 24281401; and Frupaks-Vernooij B.V., having its registered office in Deil and its principal place of business in Vleuten, Chamber of Commerce number 11010272;
- Buyer:** the Person with whom SFG has concluded an Agreement or with whom SFG is negotiating an Agreement;
- Parties:** SFG and the Buyer;
- Agreement:** every agreement between the Parties, irrespective of whether it is a framework or individual agreement, with the intent (a) that SFG supplies goods to the Buyer against payment of a (fixed) price in money (*contract of sale*) and/or (b) that SFG makes goods available to the Buyer in order to have these sold by the Buyer on the instructions of SFG (*consignment contract*) and/or (c) that SFG provides services to the Buyer and/or (d) that SFG delivers any other performance for the benefit of the Buyer, every change or supplement to this agreement, as well as all juridical acts and acts not intended to have legal effect in preparation and performance of this agreement, including offers by SFG;
- Products:** all goods and/or services and/or other performances that are the subject of an Agreement;
- Person:** a natural or legal person or company without legal personality.

In these terms and conditions, “written” / “in writing” also means: by fax and by e-mail.

## Article 2: general

1. These terms and conditions - with the explicit exclusion of all other general terms and conditions - are applicable to all Agreements. If SFG at any time does not require strict compliance with these terms and conditions, this does not mean that SFG waives its right to require strict compliance with these terms and conditions in future - whether or not similar - cases. Provisions deviating from these terms and conditions shall only be binding if agreed in writing and shall only apply to that specific case.
2. All the clauses of these terms and conditions are stipulated not only for the benefit of SFG, but also for the benefit of the following Persons, who may at all times invoke this third-party clause: (i) the directors and shareholders of SFG (including indirect directors and shareholders), (ii) all Persons working for SFG, (iii) all Persons engaged by SFG in the performance of an Agreement, and (iv) all Persons for whose actions or negligence SFG could be held liable.
3. If one or more provisions of these terms and conditions and/or an Agreement are void or declared void by a court of law, the remaining provisions of these terms and conditions and the Agreement will remain in force. The void or voided provisions will be replaced by valid provisions

that, taking into consideration the object and purport of these terms and conditions and the Agreement, deviate as little as possible from the original provisions.

4. These terms and conditions are drawn up in various languages. If there is any difference of opinion regarding the content or purport of these terms and conditions, the Dutch text will be binding.
5. SFG is at all times entitled to amend these terms and conditions.

**Article 3: offers, Agreement, harvest proviso**

1. All information and specifications issued with offers by SFG are always approximations. Deviations up to 10% shall be permitted as a matter of course.
2. All offers by SFG are without obligation. SFG is entitled to revoke its offer within three working days after receipt of acceptance by the Buyer.
3. Any acceptance by the Buyer that deviates from the offer by SFG, whether or not on subordinate points, will in any case be considered a rejection of this offer and as a new offer by the Buyer. An Agreement will only be concluded in accordance with this new offer following written acceptance by SFG.
4. An Agreement is concluded when:
  - (a) three working days have elapsed since SFG has received the acceptance from the Buyer and SFG has not revoked its offer during this period;
  - (b) SFG confirms the agreement in writing; or
  - (c) SFG commences performance of the agreement.
5. SFG is not bound to an offer and/or an Agreement at a specified price if said price is based on a misprint and/or a writing error.
6. If SFG concludes an Agreement with two or more Buyers, they shall always be jointly and severally liable towards SFG for all obligations ensuing from the Agreement.
7. Without the prior written permission of SFG, the Buyer is not permitted to transfer an Agreement or one or more of its rights and/or obligations under an Agreement in whole or in part. This prohibition has effect under the law of obligations as well as under property law (as referred to in Article 83(2) of Book 3 of the Dutch Civil Code).
8. All Agreements for the delivery or provision (“delivery”) of agricultural Products by SFG shall be subject to a harvest proviso, regardless of whether the Products in question have been cultivated by SFG or a third party. If a disappointing harvest results in a smaller quantity of Products conforming to the Agreement than could reasonably have been expected at the time the Agreement was concluded, SFG will be entitled to reduce the quantity of Products to be delivered or provided by it (“deliver”) accordingly. By delivering the thus reduced quantity, SFG will be deemed to have fully fulfilled its obligation to deliver. In the case referred to here, SFG will not be obliged to deliver replacement agricultural Products or any other form of performance and SFG will not be liable for any damage or loss whatsoever.

**Article 4: contract of sale and consignment contract**

1. If the Buyer purchases Products from SFG without the Parties having concluded an explicit and written consignment contract, the Parties will be deemed to have concluded a contract of sale.
2. The following applies in the event of a consignment contract:
  - (a) after the Products have been provided, the Buyer will immediately have them inspected by an independent expert;

- (b) upon receipt of the quality control report, the Buyer will immediately forward it to SFG;
- (c) the Buyer will keep the Products with due care;
- (d) the Buyer will authorise SFG at its first request to enter the premises where the Products are stored during normal working hours in order to inspect the Products;
- (e) the Buyer will sell and deliver the Products to third parties in its own name, bearing the default and collection risk;
- (f) without SFG's prior written consent, the Buyer will (i) not sell the Products to any Person affiliated with the Buyer and (ii) not have the Products sold by any third party, whether or not affiliated with the Buyer;
- (g) the Buyer will endeavour to realise the highest possible sales proceeds;
- (h) prior to the sale of the Products, the Buyer will consult with SFG in order to determine the sales price; if it proves impossible to sell the Products at this price, the Parties will adjust the sales price in joint consultation;
- (i) the Buyer will inform SFG on a daily basis about the market situation and developments, the quantity of Products sold, the sales prices realised and the remaining stock of the Products;
- (j) in addition to the commission accruing to the Buyer, the Buyer will only charge SFG costs that have been agreed in advance between the Parties in writing and that are visible on the sales invoices;
- (k) the Buyer will give SFG the opportunity to check the accuracy of the sales invoices, or have it checked; at SFG's first request, the Buyer will (i) provide SFG with all documents underlying the sales invoices, including but not limited to the relevant consignment accounts (*partijkaarten*), sales invoices and cost invoices, as well as all relevant proofs of payment and accounts receivable cards, and (ii) give an auditor to be appointed by SFG the opportunity to check the relevant part of the Buyer's records and the books, documents and other data carriers belonging thereto with the right to copy the relevant documents;
- (l) the Products will remain the property of SFG until the Buyer has sold and delivered them to third parties; at the expense of SFG, the Buyer will take out and maintain insurance for the Products against the risk of fire, theft, loss and damage;
- (m) SFG will at all times be entitled to terminate the consignment contract with immediate effect without giving reasons, in which case the Buyer will cooperate fully in SFG's repossession of the Products; the Buyer shall renounce in advance any rights of retention regarding the Products and shall refrain from having the Products seized.

The other articles of these terms and conditions also apply (whether or not by analogy) to consignment contracts, except if such is not possible due to the nature of a consignment contract. Insofar as this article 4 paragraph 2 is in conflict with any other article or paragraph of these terms and conditions, the provisions of this article 4 paragraph 2 will prevail.

#### **Article 5: prices**

1. Prices are stated in euros unless the Parties agree otherwise in writing.
2. Prices are exclusive of VAT and other taxes and levies and, unless otherwise agreed in writing by the Parties, exclusive of transport costs.
3. Prices are based on cost-determining factors at the time of concluding the Agreement. If a change occurs in these factors after the Agreement has been concluded but before the Products

are delivered without SFG being reasonably able to influence this, SFG shall be entitled to charge the resulting costs to the Buyer.

**Article 6: conformity, delivery times, delivery and risk**

1. The conformity of the Products shall be assessed based on the laws and regulations in force in the Netherlands at the time of delivery. SFG is not obliged to take account of any other laws and regulations unless the Parties agree otherwise in writing.
2. The delivery times stated by SFG are always approximations and shall never be considered final deadlines.
3. Unless the Parties have agreed otherwise in writing, delivery shall be Ex Works. "Ex Works" will be interpreted in accordance with the latest version of the Incoterms.
4. If the Parties agree that SFG is to store Products for the Buyer on either SFG's premises or those of a third party, and these Products have not yet been delivered to the Buyer, the Products shall be considered to have been delivered at the moment of storage. From the aforementioned moment, the Buyer shall be subject to the duty of inspection and complaint as described in Article 7 of these terms and conditions, and this Article 7 shall also apply in full. SFG is never obliged to insure the Products for the duration of the storage.
5. SFG is entitled, but never obliged, to deliver the sold Products in parts and to invoice each part separately.
6. The Buyer shall be obliged to accept the Products purchased. The obligation to accept the Products shall consist of: a) performing all acts that can reasonably be expected of the Buyer in order to enable SFG to effect delivery and b) taking possession of the Products. If the Products are not accepted within six hours after having been made available to the Buyer, the Buyer shall be in default without any notice of default being required and SFG shall be entitled to terminate the Agreement and claim compensation from the Buyer without prejudice to its other rights, including the right to store the Products at the Buyer's risk and expense.

**Article 7: inspection and complaints**

1. The Buyer is obliged to inspect the Products, or have them inspected, immediately upon delivery, which in this article is understood to mean that the Buyer must thoroughly and accurately inspect whether the Products comply with the Agreement in all respects, more specifically:
  - (a) whether the right Products have been delivered;
  - (b) whether the delivered Products meet the quality requirements, both internally and externally, that may be set for normal use and/or for commercial purposes; and
  - (c) whether the Products delivered correspond in terms of quantity (number, amount, weight) with what the Parties have agreed in this respect.
2. With a view to the inspection of the internal quality of the Products, the Buyer must cut them, or have them cut, on a random basis and check them, or have them checked, for the presence of foreign bodies and other defects.
3. The Buyer 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.
4. Complaints about the quantity delivered and about visible defects, including internal defects discovered during the inspection referred to in paragraph 1 of this article, or which should reasonably have been discovered, must be reported to SFG immediately after this inspection

- subject to forfeiture of all rights, and must then be confirmed in writing within four hours, specifying the nature of the defect.
5. Complaints about any invisible defects must be reported to SFG in writing immediately after these defects have been discovered or should reasonably have been discovered, subject to forfeiture of all rights, but at the latest within eight hours of delivery and in any event prior to the (re)sale and delivery by the Buyer and/or further transport by or on the instructions of the Buyer, specifying the nature of the defects.
  6. Complaints relating to minor and/or customary and/or technically unavoidable deviations in quality, size, weight, colour, quantity and suchlike and complaints about processed Products are inadmissible.
  7. If SFG does not accept a complaint from the Buyer within four hours, the Buyer will be obliged, subject to forfeiture of all rights, to have an independent assessment carried out within 12 hours by a sworn expert and to give SFG the opportunity to be present or represented at the said assessment. Both periods stated in this paragraph shall commence at 07.00 am (local time at SFG's place of business) on the working day following the day on which the Buyer submitted the complaint. SFG shall be entitled to have a second assessment carried out.
  8. The Buyer shall provide all necessary assistance for the investigation of the complaint. The Buyer's complaint is not admissible if it fails to provide assistance or if the investigation is otherwise not or no longer possible.
  9. If the Buyer's complaint is well-founded, also taking into account the provisions in this article, SFG will, after consultation with the Buyer, ensure delivery of the missing Products, repair or replacement of the Products delivered or adjustment of the price. SFG shall have no further obligation or liability. SFG's written approval shall be required for full or partial termination of the Agreement, including reduction of the price.
  10. The Buyer shall be obliged to ensure the preservation of the Products as a careful debtor at all times.
  11. The Buyer shall not be free to return the Products until SFG has given its written consent. If SFG stores the returned Products or takes care of these Products in any other way, this will take place at the Buyer's risk and expense. Such measures shall never constitute approval or acceptance of returns.
  12. Any violation of the Buyer's duty of inspection and complaint will always result in the forfeiture of all rights, regardless of whether SFG's actual interests have been prejudiced as a result of this violation.
  13. If the Buyer violates its duty of inspection and complaint and SFG nevertheless handles a complaint, this is done subject to all rights and SFG's efforts shall be regarded as a goodwill gesture without acceptance of any obligation or liability.
  14. If a complaint turns out to be unfounded, the internal and external costs incurred by SFG in handling the complaint will be borne by the Buyer.
  15. 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 8: retention of title**

1. SFG shall retain title to 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 92(2) of Book 3 of the Dutch Civil Code that SFG has or will acquire against the Buyer.

2. As long as the ownership of the Products has not been transferred to the Buyer, the Buyer is not permitted to pledge the Products or grant any other right thereto to a third party without the prior written consent of SFG. This prohibition has effect under the law of obligations as well as under property law (as referred to in Article 83(2) in conjunction with Article 98 of Book 3 of the Dutch Civil Code). The Buyer 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 Buyer is obliged to stipulate retention of title based on the provisions of this article if these are resold. Without the prior written permission of SFG, the Buyer is not permitted to assign, pledge or otherwise transfer or encumber the claims it has or will have against its customers. This prohibition has effect under the law of obligations as well as under property law (as referred to in Article 83(2) of Book 3 of the Dutch Civil Code, also in connection with Article 98 of Book 3 of the Dutch Civil Code). The Buyer undertakes to pledge the claims against its customers to SFG at SFG's first request as provided for in Article 239 of Book 3 of the Dutch Civil Code for additional security for the fulfilment of its obligations towards SFG on whatever basis.
3. If the Buyer fails in its fulfilment of one or more of its obligations or SFG has good reason to fear that it will fail to do so, SFG shall be entitled to take back the Products delivered under retention of title. The Buyer shall provide any assistance in this. The Buyer shall renounce in advance any rights of retention regarding the Products and shall refrain from having the Products seized. After the Products have been taken back, the Buyer 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 SFG incurs.
4. If the country of destination of the Products purchased allows further possibilities with regard to the retention of title over and above those stipulated in the preceding paragraphs of this article, the Parties accept that these further possibilities shall be deemed to have been stipulated for the benefit of SFG on the understanding that if it cannot be objectively established what these further rules are, those stipulated in the preceding paragraphs of this article shall continue to apply.
5. If the Buyer 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 SFG shall be referred to as "wir" and the Buyer 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 und seine Konzerngesellschaften zustehen.

Unser Eigentum erstreckt sich auf die durch Verarbeitung der Vorbehaltsware entstehende neue Sache. Der Käufer stellt die neue Sache unter Ausschluss des 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 Vorbehaltsware 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.

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

Hinsichtlich der Vereinbarung von Eigentumsvorbehaltsrechten gilt ausschliesslich deutsches Recht.

#### **Article 9: payment**

1. SFG's invoices shall be paid within the period stated on the invoices. Payment shall be made unconditionally without suspension, discount or offsetting for whatever reason. The Buyer shall refrain from imposing an attachment on its own assets in respect of a counterclaim against its creditor (in Dutch: "eigenbeslag").
2. The Buyer shall be in default by the expiry of the payment term without any notice of default being required. If the Buyer is in default of making any payment, all claims of SFG against the Buyer shall be fully and immediately due and payable. During its period of being in default, the Buyer will owe default interest of 1% per month or part of a month on the outstanding claims.
3. All internal and external costs incurred by SFG in connection with the collection of invoices and/or the assessment of loss and liability and/or the collection of damages, including but not limited to the actual costs of attorneys, bailiffs, experts and translators incurred by SFG, will be borne by the Buyer.
4. The extrajudicial collection costs owed by the Buyer shall be at least 15% on the first €5,000.00 (with a minimum of €250.00), 10% on the excess up to €10,000.00, 8% on the excess up to €20,000.00, 5% on the excess up to €60,000.00 and 3% on the excess above €60,000.00.
5. Payments made by or on behalf of the Buyer, regardless of the designated sequence of allocation, will first be deducted from the costs (including but not limited to the extrajudicial collection costs), then from the outstanding interest and finally from the principal and the accrued interest.
6. Further to a relevant request from SFG, which request can be made both prior to and during execution of the Agreement, the Buyer 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 SFG’s first request, issued by a reputable Dutch bank and totalling 110% of the amounts payable by the Buyer (100% of these amounts plus a 10% surcharge for interest).

7. SFG is at all times entitled to set off the amounts that it owes to the Buyer or any affiliated Person (“Buyer et al.”) on any account whatsoever against the amounts that SFG or any affiliated Person (“SFG et al.”) may claim from the Buyer et al. on any account whatsoever. The aforementioned right to set off also exists if payment of the claims is not yet enforceable and if the performance claimed by SFG et al. does not correspond with its debt.

#### **Article 10: right of retention and pledge**

1. Until such time as the Buyer has fulfilled all its obligations to SFG under any heading whatsoever, SFG will have both a right of retention and pledge to all items held or to be acquired, either directly or indirectly, by SFG in connection with an Agreement. Items in the sense of this article are defined as: movable property, bearer or order rights, monetary instruments, documents and funds.
2. The Buyer has, by accepting these terms and conditions, committed itself to granting SFG a right of pledge as referred to in paragraph 1 of this article. The right of pledge is established by bringing the items under the control of SFG or a third party that will hold the items for SFG, including but not limited to a transport operator or a storage and transshipment company.
3. The right of summary execution will be exercised in the manner determined by law. Private sale is possible with the agreement of the Parties or, on condition that SFG has a sound valuation report, if the items are so perishable that SFG cannot in all reasonableness be expected to apply to the judge in preliminary relief proceedings. All judicial and extrajudicial costs incurred by SFG with a view to exercising its right of summary execution, including but not limited to the actual costs of legal assistance and valuation incurred by SFG, are for the account of the Buyer and will be recovered from the (gross) sales proceeds.

#### **Article 11: packaging**

1. Packaging which has been delivered via SFG and on which a deposit has been charged, will be repossessed at the return price applicable at the moment of return, possibly reduced by a fixed packaging fee.
2. The packaging to be returned by the Buyer must be completely empty, not damaged in any way (not even by staples or stickers) and so clean and fresh that it is suitable for the packaging of fresh fruit and vegetable products. If the packaging does not meet these requirements, SFG will be authorised not to repossess the packaging or to arrange for emptying, replacing, repairing and/or cleaning the packaging at the expense of the Buyer.
3. If SFG repossesses packaging via its own means of transport, the packaging must be sorted by type and ready for transport.
4. Packaging which has not been delivered via SFG will not be repossessed, unless the Parties have agreed otherwise in writing.

#### **Article 12: intellectual and industrial property**

1. All intellectual and industrial property rights in relation to the Products and the packaging and packaging materials intended for them, all in the broadest sense of the word, are vested exclusively in SFG and its licensors.



2. For each infringement of a right as referred to in paragraph 1 of this article, the Buyer will forfeit an immediately payable penalty of €5,000, increased by an immediately payable penalty of €1,000 for each day, including part of a day, the infringement continues. This penalty clause does not affect SFG's other rights, including but not limited to its right to compensation pursuant to the law.

**Article 13: suspension, termination**

1. Without prejudice to its other rights under the law and/or the Agreement and/or these terms and conditions, SFG is entitled to suspend its obligations or, without any notice of default or judicial intervention being required, terminate the Agreement in full or in part by means of a written notice to the Buyer if:
  - (a) the Buyer fails to fulfil any of its obligations (or fails to fulfil them properly or in time);
  - (b) SFG has good grounds to fear that the Buyer will default in the fulfilment of one or more of its obligations;
  - (c) the Buyer is declared bankrupt or its bankruptcy has been applied for;
  - (d) the Buyer has been granted a, whether or not provisional, suspension of payments or an application has been filed for that purpose;
  - (e) the Buyer is declared subject to a statutory debt rescheduling scheme or an application has been filed for that purpose;
  - (f) the business of the Buyer is liquidated; or
  - (g) the assets of the Buyer are subject to executory attachment or subject to prejudgment attachment which is not lifted within one month of the date of attachment.
2. If the default of the Buyer under the law, the Agreement and these terms and conditions takes effect only after notice of default, SFG will, in the case referred to in paragraph 1(a) of this article, not proceed with full or partial termination of the Agreement until it has provided the Buyer with a written demand stating a reasonable term for fulfilment, which term was not complied with.
3. If SFG terminates the Agreement in full or in part, it is not obliged to pay any compensation and all its claims against the Buyer will immediately become payable in full.

**Article 14: force majeure**

1. In these terms and conditions, force majeure ("non-attributable failure") shall mean: every circumstance for which SFG bears no blame in a subjective sense and which makes it impossible or practically too onerous for SFG to fulfil its obligations or a part thereof, or to fulfil them properly or in time, including - but expressly not limited to - total or partial harvest failure, crop diseases, pest infestations, force majeure and/or breach of contract ("attributable failure to perform") and/or unlawful acts on the part of suppliers or carriers of SFG or on the part of other third parties involved in the performance of the Agreement, abnormal weather conditions, frost, storm damage and other damage caused by natural forces, strikes, transport difficulties, - epidemics, pandemics, fire, theft, war and threat of war, terrorist attacks and the threat of terrorism, as well as government measures such as import, export and transit bans, levies, import duties and quota restrictions.
2. In the event of force majeure, SFG shall be entitled to suspend fulfilment of its obligations or a part thereof without the Buyer being entitled to demand fulfilment or claim compensation. If the period of force majeure exceeds two months, each Party shall be entitled to terminate all or

part of the Agreement without being liable for compensation, on the understanding that SFG shall still be entitled to a proportionate share of the price if it fulfils part of its obligations before or after the occurrence of force majeure. SFG shall also be entitled to invoke force majeure if this occurs after it should have fulfilled its obligations.

**Article 15: liability and indemnification**

1. Without prejudice to the provisions of the above articles, the following rules apply with regard to SFG's liability for damage or loss suffered by the Buyer and/or third parties and with regard to the indemnification of SFG by the Buyer.
2. SFG's total liability on any account whatsoever shall be limited to the amount which is paid out in the particular case under the liability insurance that it has concluded, increased by the amount of the excess which is not for the account of the insurers according to the policy conditions. If, for any reason whatsoever, no payment is made under said insurance policy, SFG's total liability on any account whatsoever shall be limited to the amount of the net invoice value of the relevant Products, being the price excluding turnover tax and other taxes and levies and excluding transport costs or, in the event of a consignment contract, the amount of the net sales proceeds of the relevant Products, subject at all times to a maximum of €5,000.
3. SFG shall only be obliged to compensate damage to persons and property as described in the conditions of its liability insurance policy. SFG shall therefore not be liable for - and the Seller shall be required to insure itself against - among other things indirect damage or loss, consequential damage or loss, trading losses, business interruption losses, loss of profits, lost savings, loss due to claims from the Seller's customers, loss of customers, reduced goodwill and reputational damage.
4. Without prejudice to the provisions of the preceding paragraphs of this article, SFG's liability for Products that it purchased from third parties shall not exceed the liability of these third parties towards SFG.
5. SFG shall not be liable for any shortcomings of third parties that it engaged in the performance of an Agreement.
6. To the extent that performance by SFG is not permanently impossible, liability on the part of SFG for an attributable failure in the performance of an obligation will only arise if the Buyer has immediately declared SFG in default in writing, specifying the nature of the failure and setting a reasonable period for remedying the failure, and SFG continues to be in breach of its obligation even after that period has expired.
7. Any right to compensation is always subject to the condition that the Buyer reports the damage or loss to SFG in writing immediately, but no later than 14 days after the Buyer has become aware of the damage or loss or should reasonably have become aware of it.
8. Any legal action shall be instituted no later than one year after the timely reporting of the damage or loss, subject to forfeiture of all rights.
9. The Buyer shall indemnify SFG against any form of liability on the part of SFG in respect of third parties in relation to Products delivered or to be delivered by SFG. The Buyer shall compensate SFG for the reasonable costs of defence against third-party claims.
10. SFG will not invoke any limitation of its liability, and the Buyer will not be obliged to indemnify SFG insofar as the damage or loss is the direct consequence of intent or deliberate recklessness on the part of SFG or its managing employees.
11. The above rules shall not apply to the extent that provisions of mandatory law dictate otherwise.

**Article 16: applicable law, disputes, litigation and arbitration costs**

1. Without prejudice to the provisions of article 8, 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 UN Convention on Contracts for the International Sale of Goods.
2. With due observance of the provisions of paragraph 3 of this article, all disputes that may arise between the Parties due to or in connection with an Agreement and/or these terms and conditions will in the first instance be submitted exclusively to the District Court of Rotterdam (proceedings on the merits) or the preliminary relief judge of the District Court of Rotterdam (preliminary relief proceedings and other provisional measures), without prejudice to the right of SFG to submit disputes as referred to here to any other competent court.
3. In case the Buyer is domiciled in a country which is a party to the New York Convention of 10 June 1958 on the Recognition and Enforcement of Foreign Arbitral Awards and where neither Regulation (EU) No. 1215/2012 of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the recast Brussels I Regulation) nor the Lugano Convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (EVEX-II) applies, disputes between the Parties will be settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (“the Rules”). The arbitration tribunal will consist of one arbitrator. Article 14(4) of the Rules does not apply. The place of arbitration and oral hearing(s) is Rotterdam. The proceedings will be conducted in English. The arbitration tribunal shall make its award in accordance with the rules of law.
4. All costs related to judicial and arbitration proceedings, including but not limited to the actual costs of attorneys, bailiffs, experts and translators incurred by SFG will be for the account of the Buyer if the Buyer is fully or predominantly ruled against.

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