

TRADING CONDITIONS of DEN HARTIGH BV

clause 1 applicable terms and conditions

1.1 The following terms and conditions apply to our contracts regarding the buying and selling of potatoes:

- The RUCIP 2006 Rules, if the contract concerns a business partner located outside the Netherlands. In case of arbitration, it will take place in the Netherlands;
- The NAO Trade Conditions for Seed Potatoes 2005 (NHP-voorwaarden 2005) established by the NAO (the Dutch Potato Organisation), if the contract concerns seed potatoes and was concluded with a business partner located in the Netherlands;
- The General Trade Conditions for Wholesale Potatoes (AHV-voorwaarden) established by VBNA (Association for the Promotion of the Dutch Potato Trade) and VENEXA (Association of Dutch Potato Exporters), if the contract concerns ware potatoes and was concluded with a business partner located in the Netherlands;
And additionally, or in place of, the conditions mentioned in the following clauses:

1.2 DEN HARTIGH BV expressly disclaims the general terms and conditions of the seller or buyer if these are in conflict with the general terms and conditions of DEN HARTIGH BV, unless the parties agree otherwise in writing beforehand.

clause 2 quality standards

2.1 In respect of seed potatoes, DEN HARTIGH supplies these on the basis of the standards, stated in the Inspection Regulations of an official certifying agency, that apply to the specific class of seed potatoes to be supplied. Unless explicitly a greed otherwise, DEN HARTIGH does not give any further guarantees. DEN HARTIGH reserves the right to apply stricter standards than the official certifying organizations do.

clause 3 terms and conditions applicable to the sale of seed of varieties which are subject to plant breeder's rights

- 3.1 Seed material of varieties subject to plant breeder's rights may not be used for further propagation of those varieties, unless a written agreement to that effect, containing a provision for fair payment, has been concluded with DEN HARTIGH.
- 3.2 At the request of DEN HARTIGH, the buyer is obliged to submit to DEN HARTIGH all names and addresses of parties to which the seller has sold or resold seed material originating from DEN HARTIGH.
- 3.3 The buyer grants DEN HARTIGH and its representatives the right to inspect, test and monitor all fields planted with seed potatoes bought from DEN HARTIGH. At the request of DEN HARTIGH or its representatives, the buyer must indicate all fields planted with seed potatoes originating from DEN HARTIGH.
- 3.4 The buyer is obliged to provide direct access to his farm and the potatoes, whether these are in the fields or are in storage, to supervisory agencies which carry out supervisory activities, on behalf of DEN HARTIGH, regarding protected varieties supplied to the buyer. If requested, the buyer must allow immediate inspection of all his records, such as invoices, that are relevant to the investigation.
- 3.5 The buyer is obliged to render any assistance DEN HARTIGH may desire, including assistance in gathering proof in the event that DEN HARTIGH becomes involved in a legal action about plant breeder's rights or any other industrial property rights.
- 3.6 Seed material of varieties subject to plant breeder's rights may only be planted in the agreed country of destination.
- 3.7 In reselling seed material of varieties subject to plant breeder's rights, the buyer is obliged to require his customers to comply with the provisions of Clauses 3.1. up to and including 3.6. The buyer is responsible at any time for the compliance of his customer(s) with these provisions.
- 3.8 In the event that the buyer fails to comply with the abovementioned obligations, the seller is entitled to claim damages including loss of profit.

clause 4 force majeure

4.1 DEN HARTIGH reserves the right to fulfill its sales obligations only partially, if it appears that the available supply is insufficient because of circumstances outside its control, including weather conditions and quarantine diseases.

4.2 If a situation of force majeure continues on the 15th of July of the year, following the year in which the potatoes to which the situation of force majeure applies were grown, the contract will be dissolved on this date by operation of law without any right to damages.

clause 5 complaints and damages

- 5.1 Supplementary to Article 25 of the RUCIP Rules, and in derogation of Article 50 of the NAO Trade Conditions for Seed Potatoes (NHP-voorwaarden), in the event of damage suffered by the other party, the seller will never owe compensation exceeding the invoice amount for the goods that are subject to valid complaints.
- 5.2 Supplementary to the provisions of Article 33 of the NAO Trade Conditions for Seed Potatoes (NHP-voorwaarden), the seller is not liable for defects if the complaint is notified to the seller at a time when the seed material has already been planted.
- 5.3 The provisions of Article 55 of the General Trade Conditions for Wholesale Potatoes (AHV-voorwaarden) will never amount, in total, to more than the invoice amount for the goods to which the damage relates.
- 5.5 In the event of damage, the buyer is obliged to limit the damage as much as possible to prevent further deterioration of the product.

clause 6 terms of payment

- 6.1 If, after a contract has been concluded, the financial condition of another party is questionable, and no security for payment has been provided, DEN HARTIGH is entitled to still demand provision of such security.
If no security is provided, DEN HARTIGH is entitled to cancel the contract and to claim damages.
- 6.2 Unless explicitly agreed otherwise, the term for payment is 30 days from the date of the invoice. In the event of non-payment within this term or a different term agreed on, the buyer owes 12% interest per year, every part month being calculated as a whole month, and without notice of default being required.
- 6.3 In case of overdue payment, suspension of payments or bankruptcy, DEN HARTIGH is entitled to seize the goods and to enter the buyer's land and buildings for this purpose.
- 6.4 This contract is subject to retention of title. This means that the products supplied remain the property of DEN HARTIGH, even if they are no longer present in the form and packaging in which they were supplied, as long as the buyer has not (fully) paid the purchase price. At DEN HARTIGH's request, the buyer is obliged to inform DEN HARTIGH where the products are at that time and to provide access to the products. In respect of deliveries to Germany, the retention of title also applies to processed products.

clause 7 applicable law

7.1 All our contracts are governed by Dutch law and are subject to the jurisdiction of the Courts of the Netherlands.