

# General Terms and Conditions of Sale

Une traduction française des Termes et Conditions de Vente peut être fournie soit sur demande auprès de l'entreprise soit par téléchargement sur le site Internet [www.dlf.com](http://www.dlf.com). Eine deutsche Fassung der allgemeinen Verkaufsbedingungen ist auf Anfrage beim Unternehmen oder durch Herunterladen von der Website [www.dlf.com](http://www.dlf.com) erhältlich.

## 1. PREAMBLE

- 1.1 These General Terms and Conditions of Sale (hereinafter referred to as the "Terms") shall apply to all sales from DLF Seeds A/S or DLF B.V. (hereinafter referred to as "DLF") notwithstanding any conflicting, contrary or additional terms and conditions in any purchase order or other communication from the buyer, unless otherwise agreed in writing by DLF. Provided that the sales contract bears reference to Germany (with goods being delivered to, within or from Germany), the Addendum to the Terms shall apply (see clauses 4.3 and 11.1). No such conflicting, contrary or additional terms and conditions shall be deemed accepted by DLF unless and until DLF expressly confirms DLF's acceptance in writing thereof. When used in the Terms "writing" or "in writing" refers to a document signed by both Parties or to a letter, facsimile or e-mail.
- 1.2 Once a buyer has accepted the Terms, the buyer shall also be deemed to have accepted that the buyer's future purchases from DLF shall be subject to DLF's Terms in force at the time in question.

## 2. CONCLUSION OF A CONTRACT

- 2.1 DLF reserves the right to maintain that a final and binding sales contract has not been entered into until DLF has forwarded to the buyer an order confirmation in writing.
- 2.2 Unless DLF expressly in writing has accepted any other conditions, cf. clause 1.1, any sales contract is entered into on the terms and conditions appearing from DLF's order confirmation and the Terms (including the Addendum for Germany related sales), see here clauses 3.3, 4.3 and 11.1.

## 3. INCORPORATION OF THE ISF RULES AND RANK

- 3.1 To the extent that the individual sales contract and the Terms do not provide otherwise, the "Rules and Usages for the Trade in Seeds for Sowing Purposes", effective on the day of sale shall apply (hereinafter referred to as the "ISF Rules").
- 3.2 The ISF Rules consist of a section of General Rules and sections of Specific Rules. Regarding the Specific Rules, Part B (Seed of Forage and Turf Crops) shall apply.
- The ISF rules are available at [www.worldseed.org](http://www.worldseed.org) under "Rules" and from DLF at the buyer's request.
- 3.3 In the event of any dispute, ambiguity in interpretation or claim between DLF and the buyer the individual sales contract and its specific terms shall have first rank. To the extent that the individual contract and its specific terms are silent the Terms have second rank. To the extent that the Terms are silent the ISF Rules have third rank. If the ISF Rules are silent, the ordinary rules of the governing law shall prevail. Notwithstanding the said, clause 10 of the Terms shall have first rank in any event.

## 4. SHIPPING TERMS, DELIVERY, PAYMENT AND RETENTION OF TITLE

- 4.1 Where a trade term has been agreed, it shall be interpreted in accordance with INCOTERMS (ICC) valid at the time when the sales contract has been entered into. If no trade term is specifically agreed, the delivery shall be Ex Works.
- 4.2 Sales contracts concluded on INCOTERMS (INCOTERMS 2020), other than EXW (Ex Works) or FCA (Free Carrier), have been calculated and agreed based on costs for transportation, insurance and import duties (including all charges), as the case may be, prevailing at the time such contracts were made. Subsequent fluctuations in such costs are for buyer's account and risk, and it shall be up to DLF's discretion to pass them on to buyer even if the contract provides for those costs to be borne by DLF.
- 4.3 If the goods are to be furnished on credit, DLF, having made reasonable enquiries, may refuse or postpone delivery of one or more successive deliveries if DLF considers it necessary or relevant. If DLF finds that DLF will not be able to deliver the goods at the agreed time, DLF shall without undue delay notify the buyer thereof in writing, and if possible the time when delivery can be expected. The time for delivery shall thus be extended by the period notified by DLF, provided that this is reasonable taking into account all circumstances in the case. Otherwise, subject to clause 8 the ISF Rules shall apply. Successive delivery is allowed.
- 4.4 If the goods have been furnished on credit, the buyer shall not be authorised to dispose of it as long as the buyer has not paid for it.

The goods shall remain the property of DLF until paid for in full, including interest and other costs, to the extent that such retention of title is valid under applicable law. For deliveries into within and from Germany a prolonged retention of title shall apply. For details please see the Addendum, which is available upon request at DLF or via [www.dlf.com](http://www.dlf.com).

On condition that DLF can identify the lot of the goods, DLF shall have the right to take it back as soon as the date of payment has passed, cf. the ISF Rules, Section XXIV. Payment, Article 61. Notwithstanding the foregoing, if buyer does not settle on the due date of invoice buyer shall pay to DLF the cost of collection, including reminder fee, and an interest charge equal to five (5) per cent higher than the official banking rate in the country in which the buyer has its registered seat.

## 5. CERTIFICATES

- 5.1 Any official seed testing report, as provided prior to or in conjunction with shipment, shall be final in accordance with the ISF Rules, Section XXVI, Quality Control, Article 66, including but not limited to in relation to its date. Certificates such as an Orange Certificate issued by an accredited ISTA laboratory, national certificates as e.g. ENSE, AOSA and GNIS or certificates from an authorised DLF laboratory shall be deemed to be official seed testing reports.

## 6. MULTIPLICATION

- 6.1 Multiplication of the seed is not permitted.

## 7. ALLOCATION OF LIABILITY FOR DAMAGE CAUSED BY THE GOODS

- 7.1 DLF is liable for damages caused by the goods (product liability) according to the Danish rules on product liability.

- 7.2 DLF's product liability is subject to limitation according to sec. 8 below.

- 7.3 In all events DLF's product liability is limited to EUR 75,000 per lot.

## 8. LIMITATION OF LIABILITY

- 8.1 DLF shall not be liable for any indirect, special, incidental or consequential loss or damage or punitive damages of any nature, including, but not limited to, business interruption costs, loss of production/growth, loss of contracts, loss of profit, injury to reputation or loss of customers, or for any other consequential or indirect loss whatsoever.

These limitations of liability apply for all liabilities, including but not limited to, liability for delay, defects and product liability.

- 8.2 Regardless of the ISF Rules, the total aggregate liability of DLF shall not exceed the invoiced sales price for the goods giving rise to such claim – but in no circumstance more than a total aggregate liability of DLF of EUR 75,000 per lot – irrespective of the nature of the claim(s), whether in contract, tort, warranty or otherwise.

- 8.3 The buyer shall indemnify and hold DLF harmless to the extent that DLF incurs liability towards any third party in respect of loss or damage for which DLF is not liable towards the buyer.

## 9. EXPORT CONTROL AND INTERNATIONAL SANCTIONS

- 9.1 The buyer agrees not to disclose information or sell, export or re-export, divert or otherwise transfer goods or technology, whether directly or indirectly, sold or otherwise provided by DLF to the buyer to any destination or legal or natural person, if such action is prohibited by, or subject to sanctions under any applicable sanctions or export control laws or regulations, including but not limited to the laws and regulations of the United Nations, the United States of America, the European Union and the United Kingdom.
- 9.2 DLF shall not be obliged to sell, transfer or otherwise deliver goods or technology to any buyer, if such sale, transfer or delivery would be prohibited pursuant to applicable sanctions or export control laws or regulations.

## 10. FORCE MAJEURE (GROUNDS FOR RELIEF)

- 10.1 Force Majeure is regulated by the ISF Rules, Section XXXII. Force Majeure and Compensation. The force majeure clause of the International Chamber of Commerce (ICC), available from DLF at the buyer's request, is hereby incorporated in the contract. However, DLF shall in any circumstances be excused from any delay or failure in performance caused by labour disturbance, strikes and lock-outs, and crop failure.
- 10.2 Any sales contract entered into pre-harvest is subject to a safe crop.
- 10.3 DLF shall have the right to substitute any ordered goods with similar goods when due to crop failure, or the inability within reasonable limits for DLF to acquire the goods sold in the necessary amounts and/or quality.

## 11. CURRENCY OF PAYMENT

In the event that the country to which the sales contract bears reference (with goods being delivered to, within or from) decides to or is requested to withdraw from the Economic and Monetary Union governing the euro, or if any other circumstances in the reasonable opinion of DLF should occur implying that the Economic and Monetary Union or the euro would no longer continue in the form and as it exists and is today known DLF shall at its written request and in its sole discretion be entitled (but not obligated) to demand that any trade debt payable to DLF at such point of time shall be converted into and be payable in DKK using the DKK/EUR exchange rate at the date of the agreement between DLF and the buyer as published by the Central Bank of Denmark (*in Danish "Nationalbanken"*). The buyer has the risk of any exchange rate fluctuations between EUR, or any other relevant currency, and DKK.

## 12. FORUM AND GOVERNING LAW

- 12.1 All disputes shall be governed by and construed in accordance with the substantive laws of Denmark. An exemption applies for deliveries into, within and from Germany for which a prolonged retention of title is agreed upon. For details please see the Addendum, which is available upon request at DLF or via [www.dlf.com](http://www.dlf.com).
- 12.2 Subject to clause 11.3, disputes arising out of or in connection with the contract shall be settled in Copenhagen, Denmark, by arbitration in accordance with the ISF Rules, Section XXXIII. Dispute Resolution (the ISF "Procedure Rules for Dispute Settlement for the Trade in Goods for Sowing Purposes and for the Management of Intellectual Property", cf. Chapter B (*Arbitration Procedure Rules*), as amended from time to time).
- The rules are available at: [www.worldseed.org](http://www.worldseed.org), under "Rules" and from DLF at the buyer's request. Application for arbitration shall be made within 30 days, cf. in more detail the ISF Rules, Section XXXIII Dispute Resolution, Article 87.2.
- 12.3 If the circumstances indicate that the buyer does not intend to pay or is unable to pay, DLF shall have the right to seek recovery of the outstanding debt, either by proceedings brought in a competent court of law, without having recourse to arbitration; or by an expedited arbitration procedure as provided in Article 21 of the ISF Arbitration Procedure Rules, cf. the ISF Rules, Section XXIV, Article 62.