



ELFFERICH COMMODITIES BV

MANUFACTURER OF COIR SUBSTRATES
AND PRESERVED VEGETABLES

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GENERAL TERMS AND CONDITIONS OF "ELFFERICH COMMODITIES B.V."

A PRIVATE LIMITED COMPANY

Article 1: General

1. These terms and conditions apply to all quotations of Elfferich Commodities B.V., whose registered office is located in Delft, hereinafter referred to as: "**ELFFERICH**", and contracts between ELFFERICH and the counterparty, where ELFFERICH acts a supplier or seller of canned vegetables, especially of gherkins and related products, and of potting soil, particularly coconut - based potting soils, both taken in the widest sense. These terms and conditions explicitly also apply to distance selling contracts, i.e. a distance selling system organised by ELFFERICH where one or more distance communication techniques are used exclusively until the contract is concluded. The term "*distance communication*" refers to a medium that can be used to conclude a distance selling contract without the simultaneous personal presence of the parties.
2. These terms and conditions also apply to all contracts with ELFFERICH whose execution requires the involvement of third parties.
3. Deviations from these terms and conditions shall only apply if agreed in writing between ELFFERICH and the counterparty, and then exclusively for the contract for which they have been made. For the rest, these terms and conditions shall remain in force.
4. General terms and conditions of ELFFERICH's counterparty, however named, are expressly rejected.
5. If any provision of these terms and conditions proves invalid, the parties shall be deemed to have agreed a valid replacement clause in its place which comes as close as possible to the invalid clause's purpose and scope, and this shall not affect the validity of the remaining provisions of these terms and conditions.

Article 2: Formation of Contracts

1. All quotations are non – binding, unless expressly stated otherwise. ELFFERICH shall only be bound by its written acceptance or confirmation of an order.
2. If an order has not been accepted in writing beforehand, the contract shall be formed when ELFFERICH fully or partially executes one of the counterparty's orders, or when ELFFERICH sends the counterparty an invoice.

3. Amendment of a contract requires ELFFERICH's written consent if the counterparty wishes to amend a concluded contract, and then it shall be obliged to compensate ELFFERICH for all damage, including lost profits and all costs arising out of the amendment.
4. Agreements with or undertakings or notifications from ELFFERICH's staff shall only be binding after these have been confirmed in writing on ELFFERICH's behalf by the persons authorised to do so.
5. All documents and data provided by ELFFERICH with a quotation are provided to the best of its knowledge, but are not binding on ELFFERICH. ELFFERICH shall remain authorised to make changes thereto at all times.

Article 3: Prices

1. Prices are in euros, exclusive of VAT and other government taxes, unless the parties expressly agree otherwise.
2. Amendments concerning one or more price – determining factors such as purchase prices, wage costs, (energy) charges, taxes, exchange rates and suchlike that are made after a quotation or following the contract's formation give ELFFERICH the right to modify the agreed price accordingly. ELFFERICH shall notify the counterparty of the price modification as rapidly as possible in writing.

Article 4: Payment Terms

1. ELFFERICH shall always be authorised to demand additional security for payment from the counterparty before commencing or continuing a contract's execution.
2. Unless otherwise agreed, the counterparty shall pay the price and the other amounts payable under the contract within 30 (thirty) days of the invoice date, without any possibility of invoking any discount, set-off or suspension. Unless otherwise agreed in writing, payment shall be made through a transfer into a bank account communicated by ELFFERICH. The date when ELFFERICH's bank account is credited shall be deemed the payment date.
3. While the counterparty has not paid the sums it owes, if due, ELFFERICH shall be authorised to suspend the fulfilment of its obligations.
4. If the payment deadline is exceeded, the counterparty shall be in default automatically without any further notice of default or summons being required, and the counterparty shall then be liable to pay interest of 1.5% per month or per portion thereof on the overdue amount, unless the statutory commercial interest is higher, in which case the higher interest shall apply.

Article 5: Sequence of Payments

Payments made by the counterparty shall first be applied to offset all interests and costs payable and then to offset due invoices which have been outstanding the longest, even if the counterparty indicates that the payment relates to a subsequent invoice.

Article 6: Delivery Time

1. A timeframe indicated by ELFFERICH within which one or more products shall be delivered shall only be indicative unless expressly designated as a deadline in writing. Indicated delivery times shall never be considered deadlines.
2. ELFFERICH's commitment to an agreed delivery deadline shall lapse if the counterparty does not fulfil any obligation arising out of the contract or does not do something that is reasonably necessary or desirable to enable a delivery by ELFFERICH.
3. Excepting gross negligence on ELFFERICH's part, the exceeding of the agreed delivery deadline shall not entitle the counterparty to wholly or partially cancel the contract or to receive compensation.

Article 7: Delivery Method, Transport

1. Goods shall be delivered directly from the countries where ELFFERICH produces its products, unless otherwise agreed; in which case goods shall be delivered at the location where ELFFERICH carries on its business. The counterparty is required to cooperate fully with the delivery of the products to be delivered by ELFFERICH under the contract. The counterparty shall also be in default without being served notice of default in this respect if it refuses to accept the products to be delivered.
2. In principle, the goods to be delivered shall be shipped on a FOB, CIF, or DDP basis, unless otherwise agreed contractually. ELFFERICH is free to choose the shipper and the shipping method and shall act to the best of its knowledge and ability in this respect, without assuming any liability for this. The counterparty shall always bear the risk during shipping, unless expressly agreed otherwise. If the counterparty is not prepared or unable to receive the products or cause them to be received, ELFFERICH may deem the products delivered and may store and insure them for a reasonable period at the counterparty's expense and risk. Notwithstanding the foregoing, the risk of the products to be delivered by ELFFERICH shall pass to the counterparty once the products have been delivered by ELFFERICH.
3. ELFFERICH is permitted to deliver the products in partial deliveries. This shall not apply if a partial delivery does not have an independent value. If the products to be delivered are delivered in partial deliveries, ELFFERICH is authorised to invoice every portion separately.
4. The counterparty is required to return loaned packaging within 14 days, empty and in an undamaged condition. If the counterparty does not fulfil its obligations concerning the packaging, it shall bear all costs arising therefrom.

Article 8: Inspection, Complaints

1. The counterparty is required to inspect the delivered products at the time of delivery, and within 1 (one) day in any event, or cause them to be inspected. In this respect, the counterparty ought to ascertain whether the delivered products' quality and quantities conform to what has been agreed.
2. Any visible defects must be notified to ELFFERICH in writing within 7 calendar days of delivery. The

notice of default must contain a description of the defect that is as detailed as possible, so that ELFFERICH shall be in a position to respond adequately.

3. ELFFERICH reserves the right to inspect the goods in person and to recover them, as long as they are still in their original condition.

Article 9: Retention of Title

1. All products delivered to the counterparty shall remain ELFFERICH's property as long as the counterparty has not fully fulfilled its obligations with respect to ELFFERICH concerning the products delivered or yet to be delivered by ELFFERICH to the counterparty under the contract, as well as concerning ELFFERICH's claims due to the defective performance of such contracts.
2. Notwithstanding the remaining rights accruing to ELFFERICH, ELFFERICH is entitled to unilaterally recover and reclaim the delivered products without any further notice of default or judicial intervention if the counterparty does not fulfil its obligations as referred to above, and/or does so partially and/or late. The counterparty shall reimburse all the costs associated therewith to ELFFERICH.
3. The counterparty is not authorised to have at its disposal the products which are still ELFFERICH's property by virtue of the foregoing, to sell or pledge them or to transfer the ownership thereto, excepting sale in the normal course of its business. The counterparty shall be required to conscientiously handle and preserve the products which are still ELFFERICH's property and to insure them against the risks of damage, loss and destruction.
4. If the products which are still ELFFERICH's property are resold to third parties and these third parties have not or have not fully paid the purchase price payable, the counterparty shall be required to pledge the respective claims to ELFFERICH at the latter's first request, subject to a penalty of €5,000 for each day that the counterparty remains in breach of this obligation.

Article 10: Complaints

1. ELFFERICH is not obliged to treat complaints that have not been submitted to it through a sufficiently reasoned registered letter within 7 (seven) days of the products' receipt. The counterparty shall inspect the products for defects immediately after receipt. Non – compliance with the abovementioned deadline and stipulations shall entail the lapse of all the counterparty's claims concerning the asserted complaints.
2. The counterparty cannot assert any claims concerning complaints against ELFFERICH while the counterparty has not fulfilled any of the obligations arising out of the contract with respect to ELFFERICH.
3. Complaints concerning the contract's execution cannot affect the parties' rights and obligations concerning previously executed contracts and contracts yet to be executed, even if these shall be executed in execution of the same contract.

Article 11: Liability

1. ELFFERICH warrants that the delivered goods conform to the contract, satisfy the quality stipulations, requirements and specifications contained therein and are free of defects, as contractually agreed.
2. It is the counterparty's responsibility to ascertain whether the products to be delivered are suitable and statutorily permitted for the counterparty's intended use. If the products to be delivered within the Netherlands are to be used outside the Netherlands, ELFFERICH shall not be responsible for ensuring that the products to be delivered satisfy the requirements, standards and/or regulations established by the laws or provisions of the country where the products must be used.
3. Any liability on ELFFERICH's part, under any head whatsoever, including liability arising under these terms and conditions, shall always be limited to a maximum of the amount that the counterparty has already paid or shall pay to ELFFERICH under the contract at the time of its claim.
4. Notwithstanding the provisions of paragraph 2, ELFFERICH shall never be liable for any indirect damage, such as damage consequent upon cessation of business, operational delays or interruptions, or any other economic losses under any head or of any kind whatsoever, as well as for any direct or indirect damage which is caused directly or indirectly to any goods and persons by the services it supplies or the personnel in its service. ELFFERICH is also not liable for the infringement of patents or licenses as a consequence of the use of data provided by or because of the counterparty.
5. In the event of any third – party claim against ELFFERICH in respect of or in connection with (late or defective or improper) performance, the limitation of ELFFERICH's liability as described in paragraphs 2 and 3 shall also apply. The counterparty shall hold ELFFERICH harmless against any additional liability with respect to the third party or third parties.
6. If the counterparty is held liable by a third party for any damage for which it is not liable under the contract with ELFFERICH or these terms and conditions, the counterparty shall indemnify ELFFERICH fully in this respect.

Article 12: Force Majeure

1. In the event of the occurrence of a force majeure event, ELFFERICH shall have the option to postpone the contract's execution, amend the contract's content or cancel the contract, without being required to pay compensation for the damage that the counterparty suffers as a result of this. If the contract is cancelled, ELFFERICH shall be entitled to payment for everything that it has carried out up to that time.
2. In this respect, the term "*force majeure*" shall mean any event outside ELFFERICH's control, whether foreseeable or not, as a result of which the order's execution is wholly or partly impeded or rendered so difficult that this cannot be reasonably required from ELFFERICH. Shortcomings on

ELFFERICH's part in the contract's execution cannot be imputed to it if these cannot be attributed to fault on its part, and nor can it be held liable in that respect by virtue of the law, the contract or generally accepted concepts.

3. In any event, the term "*force majeure*" shall mean the impossibility of delivery on ELFFERICH's part as a consequence of weather conditions in the widest sense of the words (such as crop failures) that cannot be attributed to ELFFERICH's fault and which are unforeseeable at the time of the contract's conclusion.

Article 13: Cancellation

1. If the counterparty remains in breach of its obligations despite an appropriate notice of default, as well as if it is declared bankrupt, files for a suspension of payments, is placed in administration, ceases to carry on business or transfers its business, goes into liquidation, or if its products are fully or partly attached or in the event of the counterparty's death or dissolution as a legal entity, ELFFERICH shall be authorised to cancel all existing contracts with the respective counterparty without further notice of default or judicial intervention or to suspend their execution, at ELFFERICH's option, without prejudice to ELFFERICH's rights to compensation on the grounds of such a cancellation or suspension.
2. In the event of a cancellation or suspension as referred to above, all ELFFERICH's claims against the respective counterparty shall become immediately due and payable.
3. In the event of a cancellation as referred to above, on ELFFERICH's first demand, the counterparty shall be required to purchase the products then under cultivation against payment for the activities that ELFFERICH has carried out up till the time of the cancellation. If the counterparty does not fulfil this obligation, ELFFERICH shall be authorised to store or sell the products in a manner it shall determine, at ELFFERICH's option. The storage costs shall be charged to the counterparty. The proceeds of the sale shall be set off against the amount the counterparty owes to ELFFERICH.

Article 14: Costs

All costs that ELFFERICH deems necessary to incur for the preservation or the exercise of its rights with respect to the counterparty, both judicial and extrajudicial, shall be borne by the counterparty. In any event, the counterparty shall be liable to pay the following:

- on the first €3,250 (three thousand, three hundred and fifty euros): 15% (fifteen percent)
- on any amount above this sum up to €6,500 (six thousand, five hundred and fifty euros): 10% (ten percent);
- on any amount above this sum up to €16,250 (sixteen thousand, two hundred and fifty euros): 8% (eight percent);
- on any amount above this sum up to €65,000 (sixty-five thousand euros): 5% (five percent);
- on any amount above this sum: 3% (three percent).

Article 15: Applicable Law and Jurisdiction

1. This contract and all contracts arising therefrom shall be governed by Dutch law. The applicability of the United Nations Convention on the International Sale of Goods (Vienna Sales Convention) is expressly excluded in this regard.
2. All disputes (including those which are only deemed to be such by ELFFERICH or the counterparty or counterparties) which may arise as a result of this contract or the contracts arising therefrom shall be resolved by the District Court of The Hague.

Article 16: Additional Provisions concerning the Terms and Conditions

These terms and conditions have been deposited at the offices of The Hague Chamber of Commerce. The Dutch text of the terms and conditions shall prevail in the event of any dispute concerning the interpretation of one of the provisions of these terms and conditions. The most recently deposited version or the version as it applied at the time of the formation of the most recent contract shall always apply.