

# GENERAL TERMS AND CONDITIONS OF CULTUS CROP RESEARCH B.V. LOCATED IN LOTTUM

## Article 1. Definitions

A. The word "Cultus" in these General Terms and Conditions refers to Cultus Crop Research B.V., located in 5973 RB Lottum on Zandterweg 5 and registered by the Chamber of Commerce with number 12035789.

B. The word "Client" in these General Terms and Conditions refers to the natural or legal entity who has contracted Cultus to carry out work.

## Article 2. Applicability of these conditions

A. These conditions apply to all agreements with and/or contracts awarded to Cultus for the performance of work and/or the provision of services unless otherwise agreed with Cultus in writing. References to own conditions of Clients will not be accepted by Cultus.

B. Work and services in these conditions include at least but are not limited to

- \* offering and implementing training courses;
- \* carrying out research work, for example, concerning the effectiveness of products and/or cultivation methods in the field of cultivation;
- \* providing a variety of services for implemented and/or developing a variety of projects of third parties in the field of cultivation;

everything in the broadest sense of the word, but at least including services set out in the contract confirmation.

C. Any exceptions from and/or additions to these General Terms and Conditions are only valid if expressly agreed in writing.

## Article 3. Quotations

A. All offers, regardless whether they are made in a special quotation, price lists or otherwise are entirely non-obliging unless expressly agreed otherwise. All offers of Cultus are valid for 30 days unless expressly otherwise indicated in the offer and will expire by operation of law after this period.

B. All agreements, even if they have been concluded by intermediaries hired by Cultus, will take effect after they have been confirmed orally or in writing by an expressly authorised representative or have been carried out without a prior contract confirmation.

D. A compound sales quotation does not obligate Cultus to execute a part of the contract at a part of the quoted price.

E. An offer does not apply to future contracts unless explicitly stated otherwise.

F. The written contract confirmation of Cultus will be considered correct and accepted unless the Client submits a written objection within eight days after its submission.

## Article 4. Duration and termination of the agreement, joint and several liability

A. The agreement is concluded for the period set out in the contract confirmation or the, if not present, the awarded contract.

B. The parties are entitled to terminate the agreement at all times in case of an agreement concluded for an indefinite duration.

C. Termination must always be made in writing.

D. If the client has failed to demonstrate a sufficient credit rating or the legal form of the client or the control within its legal form has materially changed, Cultus is entitled to terminate an agreement in whole or in part with immediate effect without

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judicial intervention being required without having any obligations and/or being held to pay any form of compensation of any kind. The adequacy of the credit rating will be at the discretion of Cultus.

E. In the event of a jointly awarded contract, the clients will be jointly and severally liable for the payment of the invoices to Cultus.

### **Article 5. Information obligations of the Client**

A. The Client is held to provide all information and documents Cultus considers necessary or of which the Client should reasonably understand that these are needed by Cultus for the implementation of the awarded contract in a timely manner at no additional costs in the requested form.

If Cultus believes it needs to collect formation and/or documents itself, which it is not required to do unless the agreement stipulates otherwise, this will be for the risk and account of the Client.

B. Cultus is entitled to suspend the implementation of the contract until the client has met the obligations of the above sentence of this article.

Any costs of the corresponding delay will be for the account of the Client and may be charged to it.

C. All original documents and original data carriers provided to Cultus by the Client will be returned to the Client as soon as possible following its request.

D. The Client is at all times responsible for the adequacy and the accuracy of the information, data and/or files provided in the context of the quotation request, contract, agreement or otherwise. This also applies if Cultus collects this information itself based on agreements or the provisions laid down in the last sentence of A unless Cultus should have been aware of a shortcoming such as an inaccuracy and/or incompleteness.

### **Article 6. Implementation**

A. Cultus will strive to carry out the agreement to the best of its knowledge and ability and observe the principles of good craftsmanship.

B. Unless agreed otherwise, Cultus will determine the manner in which the contract will be carried out. Cultus will inform the Client about the manner in which the contract will be implemented on request.

C. The Client must be aware that for a advice provided and the implementation thereof also depend on weather and other external circumstances. Cultus is not responsible for in this regard.

D. Cultus is entitled to outsource the contract or part thereof to third parties without the need to inform the Client unless this infringes on the nature of the contract.

E. If there is a contract for the performance of successive activities, Cultus is entitled to demand the written approval of the various (phases of) activities before starting with the implementation of the subsequent activities. If the Client does not (timely) approve the work, Cultus is entitled to suspend the subsequent work. No further notice to the Client is required.

F. Cultus reserves the right to charge any additional work not specified in the agreement if this work is needed in the interest of the Client

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and/or for the correct implementation of the agreement.

If Cultus determines that more or additional work is necessary and this is possible in the context of the implementation of the agreement and the scheduled period, it will consult with the Client in advance.

G. Additional work and/or consultation may lead to delay in the implementation of the agreement. Cultus cannot be held responsible for this.

H. Cultus, its employees or employees of hired third parties will at all time have access to the location(s) and facilities of the Client needed for the implementation of the agreement and can make free use of these.

I. If Cultus cannot (fully) carry out the agreement based on a circumstance reasonably attributable to the Client, Cultus is entitled to suspend the implementation and/or dissolve the agreement by means of written notice. In this is the case, Cultus will not owe any form of compensation to the Client. The Client must at least pay Cultus for the work reasonably carried out by Cultus within the scope of the agreement. The administration of Cultus is leading in this regard and will serve a definite proof thereof, subject to proof to the contrary by the client. A circumstance reasonably attributable to the Client includes but is not limited to:

- failing to (timely) acquire the needed permits or approvals of third parties and/or the expiry thereof;
- failing to (timely) provide the resources needed for the implementation of the agreement;
- failing to (timely) delivery the reports and/or expertise or other data needed for the implementation of the agreement.

### **Article 7. Intellectual property rights**

A. All rights related to production programmes, designs, work methods and other advice and the like given by Cultus will remain the property of Cultus both during and after the implementation of a contract. This applies

regardless of the contribution of the Client or third parties hired by it to the creation thereof. Cultus will be solely entitled to exercise these rights, disclosure or transfer of data included, both during and after the implementation of the contract.

The above does not apply if this explicitly agreed otherwise.

B. All documents such as report, data, advice and software provided by Cultus to the Client are solely intended to be used by the Client to implement the agreement and may not be copied, disclosed and/or communicated with third parties in any way.

C. In case of violation of the above paragraphs, the Client is held to compensate Cultus for any suffered damage.

### **Article 8. Confidential information**

A. The parties are, subject to statutory disclosure requirements concerning certain data, required to keep all information received from the other party confidential, including the processing of acquired results. The parties will take all reasonable precautionary measures to this end.

B. Cultus is entitled to use all (numerical) results and/or data acquired from the implementation of the agreement for statistical or comparative purposes, provided that these results and/or data cannot be traced back to individual clients.

### **Article 9. Fee**

A. Cultus is always required to demand that the Client pays an advance on the fee, advance, levies and/or costs for hired parties. A received advance will be settled with the following interim settlement or final invoice of the contract.

B. Cultus has before the start of the work the right to suspend the implementation of the work until the moment the Client has paid a reasonable and fair advance for the work

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to Cultus or has provided a corresponding security.

C. The fee of Cultus is unless expressly provided otherwise not related to the result of the awarded contract and will be calculated on the basis of the usual rates of Cultus or based on what has been agreed in writing between the parties and will be due pro rata the work carried by Cultus for the benefit of the Client.

D. The fee of Cultus, possibly plus disbursements and claims of third parties, will be charged to the Client including the due sales tax per four-week period, or per month, per quarter, per year or after the completion of the work.

E. Except if expressly otherwise agreed between the parties, Cultus will invoice the Client on an hourly basis. If the hourly rate has not been agreed upon, Cultus will charge its usual (hourly) rates for the calendar year in which the work is carried out. The hourly rates can be increased by Cultus every year by a percentage determined by Cultus.

F. All rates, prices, agreed on fees, offers and the like always do not include, unless expressly stated otherwise, all disbursements, levies, claims of third parties, statutory surcharges and sales tax.

G. If a fixed fee or rate has been agreed between Cultus and the Client, Cultus will still be entitled to increase these if circumstances arise that lead to an increase of the cost price that was not reasonably foreseeable when the fee or the rate was agreed on. Cultus is also entitled to increase the fixed fee or rate if during the implementation of the agreement it determines that the number of actual hours exceeds the number of hours estimated or assumed during the conclusion of the agreement to such extent that Cultus cannot reasonably be expected to fulfil the contract for the agreed amount.

Cultus is also entitled to increase the fixed fee or rate if work is required for the implementation of the agreement

or costs are incurred that were not reasonably foreseeable when the agreement was concluded.

H. Unless the implementation of the agreement objects to this, Cultus will confirm the Client of the increased fee or rate as set out above in writing. If the fixed fee or rate is increased within three months after the conclusion of the agreement or if a later increase is higher than 10%, the Client will be entitled to dissolve the agreement by means of a written notice to Cultus. If this is the case, the Client will owe a fee to Cultus for the work carried out until that time pro rata the implementation of the agreement. Cultus must receive this declaration within seven (7) business days after the notice of the planned price increase. If this is not the case, the right to dissolve the agreement will expire and the Client will be deemed to have agreed to the increase.

I. The administration of Cultus related to the nature and duration of the performed work and the paid disbursements and declarations of hired third parties serve as complete evidence vis-à-vis the Client subject to proof of the contrary.

### **Article 10. Payment**

A. Unless otherwise agreed in writing, payment will take place in Euro in cash to Cultus or through a bank transfer to bank or Giro account in the Netherlands indicated by Cultus without any discount, suspension or set-off within fourteen days of the date of the invoice.

B. Cultus is at all times entitled to claim full or partial interim payment of the then due amount from the Client. The Client must at the first request of Cultus provide securities to guarantee his (future) obligations arising from agreements with Cultus.

### **Article 11. Non-fulfilment by the Client**

A. If the Client fails to fully, timely or properly fulfil its payment obligation or fails to fully, timely or properly fulfil any other provision of the agreement, precautionary or enforceable attachment is levied on

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its goods, is placed under receivership or guardianship, is permitted into the statutory debt rescheduling scheme, requests suspension of payments or its bankruptcy is requested, it will be deemed to be in default by operation of law and the total amount due to Cultus will be immediately due and payable without summons or notice being required regardless of any previous instalment or payment agreements.

B. The amount referred to in A will be increased by a default interest of 1% per month starting fourteen days after the date of the invoice (in which context part of a month will be considered a full month) on the gross amount of the invoice until the date of the full payment.

C. In the circumstances listed in A, Cultus also has the right to suspend the implementation of the still ongoing agreement(s) or dissolve any agreement with the Client in whole or in part, at its discretion, without judicial intervention being required, without Cultus being required to pay any form of compensation to the Client.

D. If Cultus is required to outsource an unpaid invoice to a third party for collection (lawyer, bailiff, collection agency etc.), it will be entitled to charge the debtor the extrajudicial collection costs of at least 15% of the gross amount of the invoice (with a minimum of € 150.00).

### **Article 12. Right of retention**

A. Cultus is entitled to keep any research, information, advice, project descriptions, calculations, research designs and plans, sketches, drawings, pictures, films, software and all other documents and data of any kind stored in any way created by or on behalf of Cultus for the benefit of the Client as security for the payment of all costs incurred by Cultus for the implementation of the contracts of the Client, regardless of whether these contracts related to the aforementioned or other assets of the Client unless the latter has provided sufficient security for these costs.

B. The provisions of the previous paragraph do not apply to assets or documents of the

Client that have not been processed by Cultus.

### **Article 13. Reservation of ownership**

A. The goods delivered by Cultus, including the good listed in A, will remain its property until the Client has fulfilled all of the following obligations arising from agreements concluded with Cultus:

- performances for the (to be) delivered goods;
- performances for the services (to be) carried out by Cultus based on an agreement;
- any claims due to non-compliance by the Client with (an) agreement concluded with Cultus.

B. The Client is not entitled to pledge these goods or encumber them with any other rights.

C. Goods of which the ownership has transferred to the other party with due observance of the provisions laid down in A that are still held by the other party will still be subject to the property rights of Cultus within the meaning of Article 3:237 DCC as security for claims it has or will have on the Client on whatever grounds. This reservation of property rights also applies with respect to goods delivered by Cultus that have been modified or processed by the Client and for which the reservation of ownership of Cultus would expire.

D. If the Client fails to fulfil its obligations or if there are reasonable grounds to fear that this will be the case, Cultus is entitled to retrieve the good encumbered by the reservation of ownership set out in A from the other party or third parties that hold these goods on behalf of the other party. The Client is required to fully participate in this on forfeiture of an immediately payable fine of 10% per day of all that it owes to Cultus within a minimum of € 500.00 per day.

### **Article 14. Delivery times - deliveries**

A. Unless expressly otherwise agreed, dates for the completion of (part of) the contract or indicated delivery times listed by Cultus or set out in the agreement

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will only be indicative and can never be considered deadlines.

B. Except in the case of intent or deliberate recklessness by the Board or managers of Cultus, the Client cannot claim any form of compensation and/or dissolution of the agreement if delivery does not take place within 30 days. If the delivery period is exceeded by more than 30 days, the Client must submit a written notice of default to Cultus. This notice must provide Cultus with a reasonable period for fulfilment.

D. The delivery period or date for (partial) delivery or the completion of a project states on the day on which the Client has received a written confirmation from Cultus concerning the existence of the agreement but not before the Client has met all details related to the implementation of the agreement.

E. Cultus is always entitled to make partial deliveries.

F. The risk of damage and/or loss of goods, including research reports and/or advice, that are the subject of the agreement will transfer to the Client when these are transferred to the actual control of the Client or a party designated by it.

### **Article 15. Force majeure**

A. Cultus is not liable for the late, improper or complete failure to implement the awarded contract if this is the result of force majeure in the broadest sense of the word. Force majeure includes serious defects of the production process, war, risk of war, riots, terrorism, epidemics, natural disasters, crop and/or plant diseases, pest plagues, vandalism, fire, water damage, disruptions to the delivery of gas, water and electricity and IT services and other disasters, strikes, exclusion, government measures, the loss of or damage to data needed for the implementation of the agreement, to the extent these circumstances have a direct impact on the proper implementation of the contract.

B. When a circumstance referred to in A occurs, Cultus will inform the Client.

C. If fulfilment by Cultus is temporarily impossible, it will be entitled to suspend the implementation of the agreement until the circumstance causing the force majeure no longer occurs.

D. In case of a permanent situation of force majeure, the agreement will be considered to have been dissolved after receipt of the notice referred to in B, while the Client is required to accept the delivery by Cultus and pay it for the implemented part of the agreement.

### **Article 16. Liability**

A. Any liability for damage of Cultus is limited to the amount paid by the corporate liability insurance of Cultus in that case, plus the amount of the co-payment of the policy. Any further liability is excluded as well as the applicability of Article 7:407 DCC.

B. If the corporate liability insurance does not provide coverage or if relying on paragraph A is not legally possible, the liability for damage will in each case be limited to the amount of twice the total invoices related to the contract in the period of up to 12 months prior to the liability event with a maximum of € 10,000.00.

C. The liability limitations in paragraphs A and B do not apply in case of intent or gross negligence by Cultus.

D. Cultus does not accept, except for any intent or gross negligence attributable to it, any liability for any government fines, penalties, interests, costs and/damage imposed on the Client due to an infringement on or more environmental and/or permit conditions. Compliance with such provisions and regulations will always be for the risk of the Client.

E. The Client guarantees the accuracy and completeness of the information provided by it. Cultus does not accept any liability for the inaccuracy or incompleteness

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of the information provided by the Client. Cultus does not accept any further liability for information obtained from written and/or electronic data files and/or online databases unless it is generally known that this information source contains inaccurate and/or incomplete information.

F. Cultus does not accept any further liability for errors of third parties hired for the benefit of the Client such as contractors, appraisers, business service providers and/or experts.

G. The Client indemnifies Cultus against any claims of third parties, including employees and/or customers of the other party, government bodies, customs and other official bodies, that are (partly) the result of resources used by Cultus or the Client, whether or not based on a recommendation by Cultus, with which cultivated and/or sold and delivered or to be delivered goods have been processed, preserved, conditions or modified.

Cultus accepts, except in case of intent or deliberate recklessness by its Board or managers or liability based on mandatory provisions of law, no liability for direct or indirect damage resulting from the use of the aforementioned resources.

H. Cultus is if there are any grounds, only liable for direct damage incurred by the Client as an immediate result of shortcomings attributable to Cultus. This is only possible in case of intent or deliberate recklessness by Cultus.

Direct damage includes material damage to goods sold and delivered by Cultus or goods processed or studied by Cultus as ordered by the Client, as result of shortcomings by Cultus. This also includes the reasonable costs made to determine and/or prevent and/or limit the damage.

Cultus is not liable for indirect and/or consequential damage. This at least includes all damage not covered by the definition of direct damage such as consequential damage, loss of profits, damage arising from disappointing or absent cultivation or harvest results, higher production and/or harvest costs, injury damage, immaterial damage,

lost savings, reduced goodwill, damage due to business interruption, damage due to claims of customers of the other party, interests, and costs.

I. The Client is held to prevent or limit any (possible) damage as much as possible. Cultus always has the right to reverse or limit the damage of the Client as much as possible.

J. The Client will indemnify Cultus against any claims of third parties that are directly or indirectly related to the implementation of the contract.

### **Article 17. Complaints**

A. Complaints about deliveries, provided services, an invoice and/or performed work must be submitted within thirty days after the delivery or submission of the invoice and/or the relevant goods and/or documents about which the Client complains, or within thirty days after the discovery of the shortcoming if the Client demonstrates that he was unable to reasonably discover the shortcoming at an earlier moment, by means of registered letter submitted to Cultus, on forfeiture of the expiration of all claims.

B. A complaint related to the made deliveries and/or performed services does not suspend the payment obligation of the Client.

### **Article 18. Expiration**

All legal claims of the Client based on an agreement associated with these conditions will expire, subject to provisions of mandatory law, after one year, calculated from the day on which the goods were or should have been delivered or from the day on which the work was or had to be completed.

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### **Article 19. Change of address**

A. Cultus is entitled to consider the last indicated and/or known address as the correspondence address of the Client. The Client must inform Cultus of address changes in writing.

### **Article 20. Retention of documents**

A. If and to the extent documents provided by the Client or third parties are not retrieved by the Client at the end of the contract, the documents kept by Cultus will be kept for up to 5 years after the date of the last invoice at the risk and account of the Client.

B. After the expiry of the period referred to in paragraph 1, Cultus is entitled to destroy the file and all associated documents without informing the Client.

C. Cultus accepts no liability for the loss of the file and/or the provided documents in case of force majeure. Force majeure includes theft, burglary, fire, floods, and vandalism. In all other cases, the liability of Cultus based on the retention is limited to an amount of € 200.00.

### **Article 21. Disputes**

A. The legal relationship between Cultus and the Client is solely subject to Dutch law. The applicability of the Vienna Sales Convention (CISG) is expressly excluded.

B. Disputes will only be settled by the Dutch Court competent in the place of the registered offices of Cultus unless mandatory law objects to this.