

## **GENERAL CONDITIONS OF SALE FOR THE LIVESTOCK TRADE**

### **Article 1 - Definitions and applicability**

- 1.1
- a. Livestock Dealer: the user of these conditions and member of the professional organisation 'de vereniging Vee & Logistiek Nederland' (The Dutch Livestock and Logistics Association) who acts in his capacity of seller or acts as authorised representative or mandatory of the seller. Livestock Dealer also includes the business of the Livestock Dealer including its personnel and persons who are engaged by the Livestock Dealer within the context of the performance of the agreement;
  - b. Customer: the party that purchases Livestock on the its own behalf or on behalf of another party;
  - c. Agreement: the agreement concerning the services during the purchase and sale of (farm) animals including in any event horses, goats, pigs, cows and sheep and/or the purchase and sale of these (farm) animals;
  - d. Client: the person who sells, in its own name or otherwise, animals on the instructions of the Livestock Dealer.
  - e. Supplier: the producer of livestock and the non-producer who sells livestock on its own behalf or on behalf of another party to the Livestock Dealer or its Customer;
  - f. Protocol: a set of rules and agreements determined by the board of the VLN concerning the procedures to be followed by the parties involved in the case of defects in the field of animal health such as animal diseases;
  - g. AVVC: General Livestock Transportation Conditions, issued by 'Stichting Vervoeradres' (Foundation Vervoeradres), with its registered office in The Hague at Statenplein 2 (2582 EW), [www.vervoeradres.nl](http://www.vervoeradres.nl);
  - h. VLN: the professional organisation 'Veelogistiek Nederland' (Livestock Logistics Netherlands'), with its registered office in The Hague at Benoordenhoutseweg 46.
  - i. Inspection body: the Dutch Food and Consumer Product Safety Authority as well as any other government body, sectoral organization or public or private organization in the Netherlands or abroad that has partial or full responsibility for the task of inspecting agricultural or domestic animals with a view to the suitability of this livestock or pets for certain purposes such as transportation, consumption, sports, breeding programs and so on.
- 1.2 These conditions apply to all agreements of the Livestock Dealer concerning the delivery of animals of any kind to its customer, including the related service and advice, and to agreements to perform activities. If the Livestock Dealer also applies other general terms and conditions in addition to these terms and conditions, both sets of general terms and conditions apply. If there are conflicting provisions, those provisions that offer the Livestock Dealer the most protection apply.

- 1.3 Agreements that deviate from these conditions only bind the Livestock Dealer if the Livestock Dealer has expressly agreed to them in writing.
- 1.4 General (purchasing) conditions applied by the Customer or the Client do not apply.
- 1.5 With the exception of the provisions of the sixth paragraph, other parties in addition to the Livestock Dealer such as the Client can invoke these general terms and conditions in relevant cases.
- 1.6 All rights concerning these conditions of sale, including the right of use, vested in the VLN. Use by others than the Livestock Dealers referred to in the first paragraph sub a is prohibited. The VLN board has the right to grant an exemption from this prohibition. Any party that uses these conditions of sale without the approval of the VLN will forfeit to VLN a penalty of €10,000 without prejudice to VLN's right to compensation of costs and damage.

## **Article 2 - Conclusion agreement and offers**

- 2.1 All offers and advice of the Livestock Dealer are without obligation and based on the information provided by the Customer or Client with the request.
- 2.2 The prices apply per animal, per kilo or live weight or per kilo or carcass weight. The livestock dealer has the right to set prices including or excluding VAT. The stated price is based on the purchase price and other cost factors. If one of these cost price factors increases after the offer but before the delivery, the Livestock Dealer will have the right to charge those costs on within reason. This can happen, inter alia, in the case of changes in import or export duties, taxes and/or the Euro exchange rate versus foreign currency.
- 2.3 The Customer makes the inspection details as well as the weighing data per kilogram or live or carcass weight available to the Livestock Dealer and its Client.
- 2.4 The animals have only the agreed characteristics or the characteristics that are necessary for the agreed purposes.
- 2.5 The Livestock Dealer will endeavour to perform the agreement to the best of its abilities. The Customer is aware that the Livestock Dealer acts exclusively in its capacity of intermediary who purchases the animals sold from other parties. The animals, including their possible diseases or deviations, are in principle unknown to the Livestock Dealer. This applies in particular to their health, veterinary condition and history, including any diseases or abnormalities, pregnancy status, vaccinations, quantities and types of body-critical and/or foreign substances, as well as dates on which they were administered, as well as information about the companies and locations such as the company of origin where those animals stayed.
- 2.6 Except insofar as the Livestock Dealer has given an explicit and specifically described written guarantee for a specific period, Livestock Dealer does not in any way guarantee the health status, veterinary condition and history as also described in the fifth paragraph. of the animals supplied by or through it and of the companies from which they originate.

- 2.7 Except insofar as explicitly stated otherwise from a guarantee as referred to in paragraph 6, the Buyer cannot derive any rights from any change in health status(es) - or lapses thereof. The cattle dealer is therefore unable to provide the Customer with all information that may be relevant to the Customer and the Customer is aware of this.

### **Article 3 - Delivery and risk transfer**

- 3.1 The place of delivery is the place where the animals to which the agreement relates are located at the moment the agreement is concluded, unless the Livestock Dealer has indicated a different address.
- 3.2 The Customer is obliged to collect the animals at the time indicated by the Livestock Dealer at the agreed place of delivery. If the Customer fails to collect the animals to which the agreement relates or fails to collect them on time, the Customer will be in default without requiring a further notice of default. At such times, the Livestock Dealer will have the right to dissolve the agreement. In addition, the Customer is obliged to pay the damage sustained by the Livestock Dealer or its Client, including but not limited to the costs of transport, stabling and feeding, to be increased by the hours the Livestock Dealer spends on this, all of the above subject to a minimum of €100 excluding VAT.
- 3.3 The Customer is obliged upon delivery to inspect or have it inspected thoroughly whether the delivered animals comply with the agreement: taking receipt on the part of the Customer also implies that the Livestock Dealer and the Client have complied with their obligations under the purchase agreement: the Customer grants the Livestock Dealer and its Client full and final discharge for claims in connection with visible defects, unless the Customer has made a written reservation.
- 3.4 If the parties have agreed prices per animal or per kilo of a live weight, the number of animals or kilos charged by the Livestock Dealer will be binding unless the Customer provides a specified statement of the number of animals or kilos not delivered and also enables the Livestock Dealer to check or have checked the calculation of the Customer within four hours after delivery.
- 3.5 The Livestock Dealer has the right to make partial deliveries.
- 3.6 The risk of the animals to be delivered passes to the Customer at the moment of handover at the agreed time and place of delivery. The moment of handover is moment at which the animal leaves the tailboard or earlier if the Customer or its carriers take possession of the animals. The risk is considered to pass to the Customer at the agreed moment of delivery, if the Livestock Dealer or Client has the animals ready for delivery at the agreed time and place.
- 3.7 In the case of sales of animals intended for slaughter, export or for any other purpose for which the inspection body inspects the animals, the Customer bears the risk, including the risk that the inspection body will partially or fully reject approval of the animals, unless it is established that this non-approval is due to the Livestock

Dealer's Supplier. The Customer is then obliged to recover any damages directly from the Supplier and not from the Livestock Dealer; The livestock dealer will cooperate in this if necessary.

#### **Article 4 - Transport**

- 4.1 The Customer arranges for the transport of the animals and for sufficient liability insurance in the broadest sense of the word.
- 4.2 With the exception of evidence to the contrary, the Customer will each time be the organiser or carrier within the meaning of the EC Transport Regulation (no. 1/2005) and on that basis also arranges for the data and documents required for the transport.
- 4.3 If it has been agreed that the Livestock Dealer or the Client arranges for the transport of the animals, the AVVC will also apply to the transport: article 11 AVVC as well as other provisions that deviate from these general conditions do not apply. Damage sustained during or caused by the transport will be for the account of the Customer. The Customer arranges for cargo and liability insurance with sufficient cover.
- 4.4 In the event the Customer uses property of the Livestock Dealer such as means of transporting livestock or services provided by the Livestock Dealer, the Customer indemnifies the Livestock Dealer against all damage that may be sustained by the Livestock Dealer, the Customer, the Client or third parties inter alia as a result of defects in that property or errors on the part of the Livestock Dealer.
- 4.5 If it has been agreed that the Livestock Dealer arranges for transport or part thereof, the Livestock Dealer excludes all liability for damage that arises during or as a result of said transport. The Livestock Dealer excludes in particular liability for damage that arises during the transport, including defects in the animals, contamination of or by the animals, the death of animals and damage to the property of the Customer or third parties. Article 8 applies.
- 4.6 The Supplier will act as the organiser or carrier if the Customer is not or cannot be the organiser or carrier in a legal or actual sense. If the Livestock Dealer wishes such, the Customer will be required to hold the Livestock Dealer's Supplier rather than the Livestock Dealer directly liable for damage unless the damage is attributable to the Livestock Dealer. If it is established that the Livestock Dealer is the organizer or transporter, the Customer will indemnify the Livestock Dealer - subject to intent or gross recklessness on the part of the Livestock Dealer - against all damage and claims such as fines and levies that third parties, including the government may impose.

## **Article 5 - Payment**

- 5.1 Unless agreed otherwise, payment must be made upon delivery, but at the latest within fourteen days after delivery. The Livestock Dealer determines the manner of payment.
- 5.2 Any right to setoff or suspend on the part of the Customer towards the Livestock Dealer is excluded.
- 5.3 The Livestock Dealer has the right at all times to demand advance payments concerning animals to be delivered, the activities to be performed and the costs of weighing, inspection fees or other levies.
- 5.4 If the Customer fails to pay within the agreed term it will be default and the Livestock Dealer will have the right to charge interest of at least 1% per month or part thereof to the Customer, without requiring a further demand for payment or notice of default, until the day of payment in full.
- 5.5 All judicial and extrajudicial costs sustained and to be sustained in connection with the collection of claims are fully for the account of the Customer.
- 5.6 The extrajudicial collection costs are at least 15% of the outstanding amount, subject to a minimum of €125 exclusive of VAT.

## **Article 6 - Force majeure**

- 6.1 Force majeure is defined as: each circumstance beyond the control of the Livestock Dealer, which prevents compliance with the agreement temporarily or permanently.
- 6.2 The following apply in particular as force majeure to the extent these are not included in the provisions of the first paragraph: war, the threat of war, civil war, riots, industrial disputes, transport difficulties, transport bans, animal disease crises and government measures pursuant thereto such as trade and transport restrictions, fires, illness on the part of the Livestock Dealer or persons employed by the Livestock Dealer and other disruptions in the business of the Livestock Dealer or that of the Client or the Livestock Dealer's suppliers.
- 6.3 In the event of force majeure, the Livestock Dealer will have the option of extending the term of delivery by the duration of the situation of force majeure or to dissolve the agreement to the extent that it is not yet performed. If the force majeure still continues after thirty days have passed, the Supplier is also entitled to dissolve the agreement.

If the agreement is dissolved, the Livestock Dealer is not obliged to pay any compensation, on the understanding that the Livestock Dealer may be obliged to reimburse the Supplier to cover any advantage from which the Livestock Dealer might have benefited as a result of the force majeure.

## **Article 7 - Retention of title**

- 7.1 After delivery, the animals delivered remain the property of the Livestock Dealer or the Client until the Customer has complied in full with its obligations towards the Livestock Dealer or the Client arising from all agreements concluded between the Customer and the Livestock Dealer or the Client.
- 7.2 After delivery, the animals delivered intended for slaughter remain the property of the Livestock Dealer or the Client even if they have already been processed into halves of carcasses, until the Customer has complied in full with its obligations towards the Livestock Dealer or the Client arising from all agreements concluded between the Customer and the Livestock Dealer or the Client.
- 7.3 The Customer commits that at the Livestock Dealer's first request it will cooperate in the creation of a right of pledge in respect of the claims the Purchaser has or will acquire on the basis of onward supply of the goods to its customers.
- 7.4 The Customer is obliged to administer and stable the animals owned by the Livestock Dealer so that those animals are recognisable as the property of the Livestock Dealer.
- 7.5 The Customer is obliged to keep the animals in good condition and provide them with sound medical care, food and stabling so that those animals retain their value, as a prudent debtor.
- 7.6 Encumbering animals delivered subject to retention of title is not allowed for as long as the condition precedent referred to in the first or second paragraph of this article has not been fulfilled.
- 7.7 The Customer is obliged, at the Livestock Dealer's first request, to cooperate fully in order to enable the Livestock Dealer to inspect and/or retrieve from it the animals delivered subject to retention of title. The Livestock Dealer has access to these animals and carcasses at all times: The Customer grants the Livestock Dealer consent to enter all areas where these animals or carcasses may be located including the right to gain access itself.

## **Article 8: - Liability**

- 8.1 The Livestock Dealer expressly excludes liability for damage resulting from defects in or to the animals that were delivered or the activities that were performed, to the extent such is permitted by law and with the exception of gross negligence or intent of the Livestock Dealer. The Customer and the Client are aware that the Livestock Dealer acts exclusively as an intermediary and cannot therefore accept liability for animals that he has obtained from elsewhere and whose history is unknown to him, subject to what has been shown to him from the documentation provided to him.
- 8.2 The Livestock Dealer does not accept liability for damage due to or in connection with errors, inaccuracies, incompleteness or defects in or resulting from data and information made available by the Livestock Dealer, third parties or the Customer, including certificates and veterinary data.

- 8.3 The Livestock Dealer is in no event - with the exception of gross negligence on its part - liable for damage due to or in connection with the health statuses of delivered animals and for changes that may occur in these statuses at any time or the lapse thereof. Nor is the Livestock Dealer liable for the veterinary status or other matters relevant for the agreement and liability, status and determinations of the companies from which the delivered animals originate and for changes that may occur at any time in these statuses or the lapse thereof.
- 8.4 The Livestock Dealer is – except in the case of intent or gross recklessness – not liable for damage due to or in connection with the presence of foreign and/or body-critical substances in the animals supplied, even if those animals are therefore no longer suitable for human consumption or export for the purpose of that goal. Nor is the Livestock Dealer – except in the case of intent or gross recklessness – liable for the presence of foreign and/or body-critical substances in the animals supplied if these animals therefore do not meet requirements set in legislation and regulations and/or arise from standards within the business community that is involved in the food supply or has been agreed or set by chain partners and/or requirements set by the Client and Buyer of Livestock Dealer.
- 8.5 The Livestock Dealer is – except in the case of intent or gross recklessness – not liable for damage due to or in connection with waiting periods, incubation periods, quarantine regulations that apply or restrictions otherwise that prevent free transport, tradability, processing into meat and/or human consumption.
- 8.6 The Livestock Dealer is – except in the case of intent or gross recklessness – not liable for damage due to or in connection with the fact that the animals have been bred, kept or transported in a manner that does not meet the requirements that – with a view to animal welfare – in law and regulations and/or does not meet standards agreed or set within the business community involved in the food supply and/or by chain partners and/or Customer.
- 8.7 The livestock trader is not liable - with the exception of gross negligence on its part - for damages resulting from or connected with infectious livestock diseases in which the delivered animals are involved or are a co-cause, nor for harmful hereditary characteristics and disappointing productivity of delivered animals.
- 8.8 Advice issued by the Livestock Dealer within the context of agreements concluded or to be concluded with the Customer are without obligation and cannot lead to liability on the part of the Livestock Dealer.
- 8.9 The Livestock Dealer is not liable for damage even if the cause of that damage arose previously if after the moment the risk transferred to the Customer:
  - a. the animals have not been maintained or kept properly or at least in accordance with the applicable government regulations;
  - b. the animals have been exposed to avoidable dangers such as diseases;
  - c. the animals were used for different purposes or were overburdened;
  - d. the animals have been processed.



- 8.10 The Livestock Dealer does not accept liability for indirect damage including stagnation in the production, recalls by the Customer or third parties, investigations and sampling by or on behalf of inspection authorities and associated decrease in value of the delivered animals or their meat, waiting periods and incubation periods, quarantine regulations or restrictions otherwise that affect free transport, tradability, processing into meat and/or human consumption, fines or other charges to the business of the Customer or third parties.
- 8.11 In case in which the Livestock Dealer's liability is nevertheless determined, the Livestock Dealer's liability is limited to the amount that will be paid out by the Livestock Dealer's liability insurer in connection with the damage. If the insurer makes no payment and the liability of the Livestock Dealer is nevertheless established, liability will be limited to at most the amount of the purchase price that was charged for that animal or those animals within the context of that order without prejudice to the Customer's obligation to pay the purchase price.
- 8.12 Any claim against the Livestock Dealer lapses after expiry of one year after the day on which the party that submits the claim was aware or should reasonably have been aware of the facts on which it bases its claim.

## **Article 9 - Complaints and defects**

- 9.1 Complaints concerning inaccuracies in the Livestock Dealer's invoices or concerning activities performed must be reported and specified in writing within eight days after the invoice date. Complaints do not suspend the Customer's payment obligations. Invoices drawn up by the Customer or third parties and intended for Livestock Dealer require the written approval of the Livestock Dealer.
- 9.2 Visible defects in the animals in respect of which a reservation was made within the meaning of article 3.3 must be reported to the Livestock Dealer within two working days.
- 9.3 Non-visible defects must be reported to the Livestock Dealer in writing immediately after they were discovered or could have reasonably been discovered, but in any event within eight days after delivery. Deviations from the terms referred to in the first sentence are possible by means of a protocol.
- 9.4 Defects will be considered to be visible at the time of delivery, unless the Customer provides conclusive evidence that the defect already existed at the time the agreement was concluded. In derogation from the provisions of article 13, the Customer and the Livestock Dealer may agree to jointly appoint an independent expert who will render an opinion that is binding for the parties in respect of:
  - a. the moment the damage arose;
  - b. the question whether the defect could have been discovered at the time of delivery;
  - c. the extent of the damage;



- d. the obligation to contribute to the compensation of the damage on the part of the Customer and the Livestock Dealer.
- 9.5 In the case of defects in the area of animal health, such as animal diseases or a suspicion thereof, action will be taken in accordance with the protocols determined by the VLN. If a party fails to act in accordance with the applicable protocol, said party is liable in principle for the damage sustained by the parties as a result of the defect.
- 9.6 The Customer gives the Livestock Dealer the opportunity to properly investigate a complaint or to have it investigated, failing which the Customer's claims will lapse.
- 9.7 In the event the terms provided for in this article and pursuant to the protocols in this article are exceeded, any right to a claim against the Livestock Dealer lapses, including the right to a complaint. This right also lapses if the animals delivered by the Livestock Dealer have been processed.

#### **Article 10: - Suspension, dissolution and default**

- 10.1 If the Customer fails to comply with the obligations that arise from the agreement that has been concluded or fails to comply with them on time or properly, or if there is a well-founded fear thereof, and in the event of bankruptcy or suspension of payment on the part of the Customer or in the event of the cessation, sale or liquidation of its business, the Livestock Dealer will have the right to suspend performance of the agreement or to dissolve the agreement, without any prejudice to the provisions of the third paragraph.
- 10.2 Claims concerning the part of the agreement that has already been performed and damage resulting from the suspension or dissolution, including lost profit, are immediately payable.
- 10.3 If the Customer is in default, the Livestock Dealer is authorized to exercise the rights that the law grants, such as dissolution of the agreement, the right to return the delivered animals, and all this without prejudice to the Customer's obligation to compensate the Livestock Dealer and also the to reimburse its lost profits. And the Livestock Dealer is entitled to monetize the animals delivered or to be delivered under the agreement.

#### **Article 11 - Relationship between the Client and the Livestock Dealer as regards purchase orders**

The following stipulations apply if the Client is also the Livestock Dealer's Customer:

- a. The Livestock Dealer will endeavour to carry out the Client's order to the best of its abilities, but does not guarantee any result in that connection.
- b. The Livestock Dealer is free to determine who will carry out the order. The applicability of Articles 7:404 of the Dutch Civil Code and 7:407(2) of the Dutch Civil Code is excluded;

- c. In addition to the purchase price, the Client owes the Livestock Dealer a compensation for the agro services it has provided.
- d. Invoices drawn up by the Client or third parties require the written approval of the Livestock Dealer.

## **Article 12 - Purchase and sale conditions VLN: conflict rule**

- 12.1 If the Customer applies the VLN purchasing conditions, these purchasing conditions will apply between the parties on the understanding that:
  - a. in the event of defects in the livestock or other damage, the injured party is obliged, if the other parties wishes such and without prejudice to the second and third paragraph, it is not the other party but rather its trading relationship such as the Supplier as the producer of livestock or the Customer as the end user will held directly liable, unless the damage is attributable to the other party itself;
  - b. to the extent such does not place it in a legally less advantageous position, the other party will be obliged to cooperate in actions such as cooperating in a transfer of the contractual rights and obligations of the injured party that are intended to recover its damage directly from the trading relationship of the other party such as its Supplier as the producer of livestock or the Customer as the end user.
- 12.2 The parties are obliged to consult with each other first in order to attempt to reach an amicable settlement.
- 12.3 In the event of defects in the livestock or other damage, the parties are always obliged to inform each other concerning the actions they intend to implement towards third parties, in particular relationships of the parties.

## **Article 13: - Applicable law and arbitral award**

- 13.1 All agreements concluded by the Livestock Dealer are subject to the written and unwritten standards that apply in livestock trade and otherwise subject to Dutch law.
- 13.2 If one or more provisions of these conditions prove to be invalid, the agreement will be interpreted as much as possible according to its purport.
- 13.3 The parties submit all disputes, including transport disputes that follow from the current and future legal relationships between them to arbitration in accordance with the regulations determined for this purpose by Stichting voor de Veearbitrage (foundation for livestock arbitration). These regulations can be obtained from Stichting voor Veearbitrage, with its registered office in The Hague, postal address De Panoven 27d (4191 GW) in Geldermalsen, [www.veearbitrage.nl](http://www.veearbitrage.nl).