

General Terms and Conditions

Wageningen UR (University & Research centre)

January 2010

These General Terms and Conditions have been established by Wageningen University, Stichting Dienst Landbouwkundig Onderzoek and Stichting Van Hall Larenstein and have been filed with the Chamber of Commerce Central Gelderland in Arnhem, the Netherlands.

These General Terms and Conditions apply to the express exclusion of the applicability of any Principal's general or other terms and conditions, regardless of their title.

Article 1 Definitions and Applicability

1.1

Wageningen UR (University & Research centre) is a partnership comprising three legal entities, Wageningen University, Stichting Dienst Landbouwkundig Onderzoek and Stichting Van Hall Larenstein. For the purposes of these General Terms and Conditions, 'Wageningen UR' must be read as meaning the legal entities referred to above, whether acting individually or as a partnership.

1.2

With the exception of the online offer of goods and services and the online purchase of goods and services, these General Terms and Conditions apply to all Agreements or other legal relationships with Wageningen UR.

1.3

The Agreement is concluded once the Principal has provided written acceptance of a Quotation made by Wageningen UR. If Wageningen UR has commenced performing the Agreement with the Principal's consent, the content of the Agreement will be considered to have been agreed.

1.4

In the event of conflicts between the various documents, the terms of the Quotation take precedence over the General Terms and Conditions and the General Terms and Conditions take precedence over the Research Plan.

Article 2 Quotation, Content of Agreement

2.1

A Quotation is free of obligation unless it states a term for acceptance.

2.2

Except for the purposes of evaluating the Principal's interest in concluding or not concluding an Agreement, the Principal is prohibited from using or making public the knowledge and ideas that Wageningen UR sets out in the Quotation or Research Plan. This provision also applies to proposals to amend or supplement the Quotation or Research Plan.

2.3

The content of the Agreement is determined by the description of the work included in the Quotation and the Research Plan, including any agreed written amendments to same.

2.4

Investigating the existence of patents held by third parties and researching the possibility of obtaining a patent do not form part of the Agreement. If an express written agreement is concluded with regard to the performance of such investigation or research, Wageningen UR accepts no liability whatsoever for the content or results of such investigation or research.

Article 3 Performance of the Agreement

3.1

In performing the Agreement, Wageningen UR does not undertake to do more than to attempt to achieve a useful result for the Principal.

3.2

All the terms stated in the Quotation and the Research Plan are estimates. Wageningen UR will not be in default simply because a term has expired. If it becomes apparent to Wageningen UR that a deadline will be missed by a substantial period of time, Wageningen UR will inform the Principal of this fact and enter into negotiations on that point.

3.3

Wageningen UR is not obliged to commence work until the Principal has provided Wageningen UR with all the agreed data, samples, equipment or other items, and has provided them in the agreed form, quantity and/or quality. Delays in providing the aforementioned items will entitle Wageningen UR to revise its planning, as well as to recharge the Principal for any costs incurred as a result of the delays.

3.4

Wageningen UR is entitled to substitute other employees for the employees it has assigned to perform the work. Wageningen UR is entitled to engage third parties to perform all or part of the Agreement, under Wageningen UR's supervision, without obtaining the Principal's advance permission to do so.

3.5

Each party will inform the other party of any particularities that emerge during the Agreement's performance which the former party considers relevant to the latter.

3.6

If the agreement includes a provision regarding analysing samples, the Principal will bear responsibility for selecting the samples, ensuring that the samples are representative, labelling the samples with codes and brand or product names, identifying the samples, and providing the date the sample was taken and other relevant information regarding the samples to be analysed.

3.7

If reasonably possible, Wageningen UR will keep any items, including samples, it has been provided, or the remainders thereof, for a period of two weeks after the date on which the Principal is notified of the results of the Agreement. If the Principal has not made arrangements for the return of the items within this period, Wageningen UR will be entitled to take appropriate measures in this regard at the Principal's expense.

Article 4 Reports

4.1

Wageningen UR will report to the Principal concerning the progress on the performance of the Agreement in accordance with the relevant provisions of the Quotation or Research Plan.

4.2

Results of interim or other reports delivered to the Principal will be considered as having been accepted if Wageningen UR does not receive a written objection to those results within four (4) weeks of delivery.

Article 5 Prices and Payment

5.1

All amounts that Wageningen UR states in the Quotation or Research Plan are in euro and are exclusive of VAT.

5.2

Unless stated otherwise in the Quotation, the amount stated in the Quotation is a fixed price. As of 1 January of each year, Wageningen UR is entitled to index the price for the part of the Agreement that has not yet been performed in accordance with the annual adjustments of the rates Wageningen UR charges if the period of time between date of the Quotation and the date of completion is one year or longer.

The costs of contract extras can only be recharged to the Principal if the Principal has consented to same in writing or by e-mail.

5.3

The Principal will remit the price for performing the Agreement in accordance with the payment schedule included in the Quotation. If no schedule is provided, Wageningen UR may require advance payment and/or issue interim invoices.

Wageningen UR will issue invoices, and the Principal must pay those invoices within thirty (30) days of the invoice date.

5.4

If an invoice is not paid within thirty (30) days of the invoice date in accordance with Article 5.3, Wageningen UR is entitled to increase the invoice amount by one and one quarter percent (1.25%) for each thirty (30) days (or part thereof) until the invoice amount, including the aforementioned increase, is paid in full. Wageningen UR can also invoice the Principal for any collection costs.

5.5

The grant or transfer of rights or the transfer of property, including property as referred to in Article 7.6, will always be made subject to the suspensive condition that the Principal has fully paid all of the amounts the Principal owes Wageningen UR in connection with the Agreement.

Article 6 Confidentiality

6.1

Both parties are obliged to keep and treat as confidential any information that is provided by the other party in the context of the Agreement and that the other party expressly labels as confidential information, and that information can be used for no purpose other than for performing the Agreement. This duty of confidentiality remains in force until three (3) years after the date on which the confidential information is received.

6.2

The obligations arising from the previous paragraph are not applicable to confidential information if the receiving party can demonstrate that:

- the information is generally known or that it became generally known after it was provided through no fault of the receiving party;
- the receiving party already had the information on the date it was provided to it;
- the information was obtained from a third party without a duty to maintain confidentiality and to the best of the receiving party's knowledge there was no reason to assume that the information being provided did not originate from the third party who provided it;
- the information was obtained through the receiving party's own research and that research did not in any way entail the use of the confidential information received;
- the receiving party is mandated to disclose the information pursuant to a statutory provision or valid order from a court, administrative agency or governmental institution.

6.3

The obligations pursuant to Article 6.1 will not apply if and insofar as they conflict with Wageningen UR's statutory duties or if Wageningen UR foresees that compliance with those duties would engender a danger to persons, property, the environment or public health. In that case, Wageningen UR will, if possible, consult the Principal before disclosing the confidential information.

Article 7 Right to Results

7.1

Wageningen UR and the Principal will remain the owners of the knowledge that belonged to them prior to the commencement of the Agreement, as well as the knowledge they develop outside the scope of the Agreement to be performed as described in the Quotation and/or the Research Plan.

7.2

Improvements or adaptations of existing models, techniques, methods and instruments, including software, algorithms and other information, are and will continue to be the property of Wageningen UR.

7.3

Wageningen UR will be the owner of the intellectual property obtained from the results pursuant to the Agreement.

7.4

The Principal has a non-transferable, non-exclusive right to use the results pursuant from the Agreement within the Agreement's field of research as described in the Quotation and/or the Research Plan.

7.5

Wageningen UR has the right to use the results pursuant to the Agreement for internal research and education purposes. After an interim and/or a final report has been provided, Wageningen UR has the right to use the results reported therein to benefit third parties and, after the Agreement has terminated, to allow third parties to use those results.

7.6

Reports and other property resulting from the Agreement are the property of the Principal, notwithstanding the Wageningen UR's copyright. The Principal is entitled to duplicate this property for internal use.

Article 8 Publication

8.1

Wageningen UR has the right to publish the results pursuant to the Agreement with due observance of the provisions of Article 6. Wageningen UR will provide the Principal with a written copy of all the results it intends to publish.

A substantiated written request for a postponement of publication will only be granted to permit the Principal to investigate whether the publication of results will disclose any confidential information or to investigate whether the Principal itself can request protection of the results if Wageningen UR does not exercise the right described in Article 9.1.

A postponement of the publication of the aforementioned research will be granted for a period of two (2) months. If an additional arrangement between the Principal and Wageningen UR entitles the Principal to establish intellectual property rights to the relevant results and the Principal wishes to do so, the postponement will be extended by another three (3) months. After this term (or these terms) expires, Wageningen UR will be entitled to publish the results.

If Wageningen UR has not received a written response from the Principal within thirty (30) days of providing the latter with written notification of its intent to publish, the Principal will be considered to have consented to the intended publication.

8.2

The Principal is not permitted to publish all or part of a report issued by Wageningen UR, or to have same published, without first obtaining Wageningen UR's written permission to do so. 'Publish' will also be understood as allowing third parties to examine the report or to use it in a more general sense in court proceedings, advertising or recruitment.

8.3

The Principal is not entitled to use Wageningen UR's name and logos (or parts thereof) for any purpose whatsoever.

Article 9 Protection of Knowledge

9.1

To the extent that Wageningen UR's performance of the Agreement leads to results that are eligible for protection by establishing one or more intellectual property rights, Wageningen UR will be the first party entitled to establish that intellectual property right in its own name and at its own expense.

9.2

The parties will lend one another their full cooperation in submitting a request such as the aforementioned.

Article 10 Liability

10.1

Any liability on the part of Wageningen UR for harm or loss incurred by the Principal as a result of, or in connection with, Wageningen UR's failure to perform its obligation or, a wrongful act on Wageningen UR's part or that is based on any other legal ground is limited to the direct loss or harm incurred and will be limited to the amounts the Principal has paid in connection with the Agreement pursuant to which the loss or harm was incurred. The aforementioned limitation does not apply if and insofar as the loss or harm is attributable to an intentional act or omission or deliberate recklessness on the part of the management or its supervisory subordinates.

10.2

Wageningen UR is not liable for any loss or harm the Principal incurs as a result of Wageningen UR's performance of the work and/or use of the results ensuing from the Agreement.

10.3

Wageningen UR accepts no liability whatsoever for any indirect loss or harm, consequential or any other incidental loss or harm, including but not limited to the loss of turnover or profit or the loss of data.

10.4

Wageningen UR accepts no liability whatsoever for any loss or harm resulting from defects in items, including software, that Wageningen UR supplies to the Principal, except and to the extent that Wageningen UR is able to obtain compensation for same from its supplier.

10.5

Any claim for damages against Wageningen UR's employees or persons whose services Wageningen UR engages is expressly excluded. Such employees of, and persons engaged by, Wageningen UR may at all times invoke this third-party clause, which is stipulated for their benefit.

10.6

The Principal indemnifies Wageningen UR against any third-party claims that are in any way related to the work Wageningen UR has performed for the Principal or that ensue from using the results of that work. The Principal indemnifies Wageningen UR against third-party claims ensuing from the use of the data or property that the Principal has provided to Wageningen UR in the context of the Agreement's performance.

Article 11 Force majeure

If Wageningen UR or the Principal is unable to perform its obligations pursuant to the Agreement as the result of a situation of *force majeure*, the relevant party may suspend its obligations while such situation lasts, provided that the other

party has been informed in writing of the situation of *force majeure* immediately after its occurrence. *Force majeure* will include all those situations which prevent the performance of the work or the Agreement and for which the relevant party is not to blame either pursuant to the law, any juristic act or generally accepted standards and which are therefore not attributable to that party, including but not limited to the loss of the plants and animals used in performing the Agreement.

Article 12 Cancellation

12.1

Either party is entitled to cancel the Agreement with immediate effect and without prejudice to its right to claim damages if the other party substantially fails to perform any essential obligation pursuant to the Agreement and the non-performing party continues to fail to perform within the term set for that purpose in the other party's written notice of default. The right to dissolve the Agreement is excluded.

12.2

Except for the provisions in the previous paragraph, the parties will have the right to immediately cancel the Agreement by registered letter, but only if:

a

the other party is declared bankrupt or is granted a suspension of payments, or a request to that effect is submitted;

b

the other party's business is wound up or discontinued; or

c

a situation of *force majeure* – as provided for in Article 11 – arises which has lasted longer than ninety (90) days.

Article 13 Miscellaneous

13.1

Any claims on the part of the Principal will lapse twelve months after the work to which they pertain was performed.

13.2

Should it prove impermissible for a party to invoke one or more of the provisions of these General Terms and Conditions at law, the Agreement and the other applicable General Terms and Conditions will remain unchanged and in full force and effect. In the event of such impermissibility, the relevant provision will be replaced with a provision that reflects the original as closely as possible in terms of content, purport and consequences.

13.3

The parties are not entitled to transfer their rights and obligations under this Agreement to a third party without obtaining Wageningen UR's prior written permission to do so, which permission will not unreasonably be withheld. In this context, the subdivisions of Wageningen UR will not be considered to be third parties.

Article 14 Disputes

14.1

The Agreement and legal relationships between Wageningen UR and the Principal are governed by the laws of the Netherlands.

14.2

All disputes arising from the Agreement, or from any additional agreements ensuing herefrom, will be submitted for adjudication by the competent court in Arnhem, the Netherlands.