



GENERAL TERMS AND CONDITIONS OF SALE AND ARBITRATION RULES

ASSOCIATION OF THE
POTATO PROCESSING INDUSTRY

V.A.V.I.
GENERAL TERMS AND CONDITIONS
relating to the sale of potato products

Application of General Provisions

Article 1

- 1.1 These V.A.V.I. Terms and Conditions apply to all offers and sale and purchase agreements for potato products and other items (hereafter referred to as 'PRODUCTS') in which the parties explicitly or tacitly declare them applicable. They shall apply likewise if they are referred to in an offer and/or a confirmation of purchase or sale, providing that, by virtue of the absence of any objection, the other party accepts their application. Hereinafter 'written' or 'in writing' shall be taken to mean by electronic means, courier, fax or by registered letter.

Article 2

- 2.1 In addition to the V.A.V.I. Terms and Conditions, all agreements are subject to Dutch law. Such agreements are deemed to have been concluded and executed in the Netherlands.
- 2.2 Payment of the agreed purchase price shall be lodged to the bank account specified by the seller, in the agreed currency.
- 2.3 The application of the Vienna Convention on the International Sale of Goods is explicitly ruled out.

Offers

Article 3

- 3.1 Offers are made entirely without obligation, unless otherwise stated in writing. On acceptance of an offer explicitly stated as being without obligation, the seller has the right to withdraw the offer within two working days of receipt of such acceptance.

Confirmation of Purchase

Article 4

- 4.1.a A sales agreement is binding on both parties as soon as it is contracted. Evidence thereof can be provided by any legal means.
- 4.1.b A confirmation of receipt of supplied PRODUCTS, as signed by the buyer, or the acceptance of such PRODUCTS, constitutes proof of the existence of a purchase agreement for the goods.

- 4.2 The seller shall send the buyer confirmation of the agreement in writing at the earliest opportunity, stating that the agreement is subject to the V.A.V.I. Terms and Conditions and to the V.A.V.I. Arbitration Regulations. The buyer shall be deemed to have accepted such confirmation if no objection thereto is submitted in writing within three days of receipt.
- 4.3 The seller's agents or representatives are not unconditionally authorized to enter into binding agreements on the seller's behalf. They may conclude sales subject to the seller's approval only.

Deliveries

Article 5

- 5.1 Unless otherwise agreed, sold PRODUCTS shall be delivered by the seller ex works (EXW as defined in the most recent Incoterms).
- a. Transportation risks shall be borne by the buyer. The transport costs shall be covered by the buyer, unless otherwise agreed. The buyer shall bear the risk of any deterioration in quality or defects arising after actual delivery ex works.
 - b. Unless otherwise agreed, the buyer shall bear the risk and expense of all sold PRODUCTS as from the time of delivery.
 - c. The buyer is required to accept delivery of purchased PRODUCTS at the time and place determined in the agreement, and to provide the necessary delivery instructions for that purpose, in good time.
- 5.2 If the buyer, having received notice of default, remains in default on purchasing and/or other commitments, the seller has the right to terminate the agreement and claim damages. Notice of default shall be served in writing, granting the buyer a reasonable period in which to fulfil its commitments. The seller may also place the sold products at the buyer's disposal, store them at the buyer's expense and claim payment of the purchase price.
- 5.3 If the buyer fails to meet its commitments promptly, the seller also has the right to claim fulfilment before a court, without serving notice of default in advance. The seller may file such a claim, at its own discretion, with the district court in Rotterdam, the district court at its own place of residence or establishment, or with the Arbitration Tribunal, as referred to in Article 29 of the Arbitration Regulations.
- 5.4 Stated delivery dates shall not be regarded as final dates, unless explicitly agreed otherwise. This applies likewise to schedules drawn up for deliveries of sold products.
- 5.5 In the event of a schedule as referred to in the previous clause, the buyer shall be entitled, either before or after expiry of the dates laid down in a delivery schedule, to summon the seller to meet delivery commitments within a period that affords the seller a reasonable opportunity to produce the sold products. If the seller fails to comply with such a summons, the buyer has the right to terminate the outstanding part of the purchase agreement and to claim damages. If no action is taken in respect of the summons, the buyer shall confirm the termination of the agreement and the demand for damages in writing within 48 hours of expiry of the period set. If the buyer fails to do so, the right to fulfilment of that part of the agreement and to damages shall lapse or the agreement shall remain in effect.

Suspension

Article 6

- 6.1 If the seller has sound reasons to fear that the buyer will default on acceptance, payment or other commitments, and the buyer fails to respond to a written warning requiring it, within a reasonable period set:
- a. to declare its willingness to meet such commitments and
 - b. to provide reasonable evidence that it is in a position to do so and
 - c. to provide security for this if required,
- the seller has the right to suspend its delivery commitments. After a two-week suspension period the seller has the right to terminate any outstanding part of the sales agreement, with the right to claim compensation for the damage it suffered. If it transpires that compliance by the buyer remains an impossibility, the two-week period referred to above will not apply. The seller should notify the buyer accordingly of the termination in writing.
- 6.2 Where a petition is filed for the buyer's winding up, if the buyer applies for a moratorium on payments, or in the event of distraint upon any of the buyer's capital assets, or where the buyer otherwise loses power to dispose of its assets, the seller will be entitled to terminate the agreement forthwith. The seller then has the right to demand immediate payment of all receivables from the buyer.

Non-conformity

Article 7

- 7.1 Claims regarding defects or deteriorations in the quality of delivered PRODUCTS are subject to restrictions, since PRODUCTS are liable to decay and the seller has no influence on such products after actual delivery, nor any opportunity to check methods of handling and storage.
- 7.2 The buyer has full rights to submit claims at the time of actual delivery ex works. The buyer has the right to attend delivery in person, or through a representative. The buyer or its representative, respectively, is obliged to carefully inspect the delivered products at the time of delivery and check the quantity, weight and packaging, among other things.
- 7.3 Rights to submit claims regarding deliveries of PRODUCTS expire upon expiration of the period referred to below, as from the moment that the PRODUCTS have been delivered to the buyer or earlier where they have been placed at the buyer's disposal:
- a. in regard to fresh PRODUCTS and PRODUCTS with a shelf life of less than three months: two working days
 - b. in regard to PRODUCTS with a longer shelf life, including dried PRODUCTS and deepfreeze PRODUCTS: eight working days
 - c. in regard to the packaging material and other PRODUCTS that are not foodstuffs: eight working days.
- 7.4 Claims are valid only if submitted in writing together with a clear description of the complaint. The buyer shall store PRODUCTS for which claims are filed in the manner specified on the packaging. The buyer shall also keep the packaging.

7.5 If the seller does not accept the claim within two working days, the buyer can no longer claim that the delivered PRODUCTS do not comply with the agreement, unless the buyer applies for the appointment of a claims assessor within two working days of the end of the response period of two working days, to the Secretariat of the V.A.V.I. at Schenkkade 50, 13th floor in The Hague, the Netherlands, telephone 070-3365272, or by email to info@vavi.nl. The assessment shall be conducted in a manner determined by the Secretariat of the V.A.V.I., providing that it takes place at the earliest possible opportunity and that both parties receive notification of the date, time and location of the assessment, far enough in advance to allow them to attend.

- 7.6 If an assessment report shows that delivered PRODUCTS failed to meet the agreed quality requirements at the time of actual delivery, and that the variation in value exceeds 15%, the buyer has the right to refuse to accept delivery of the PRODUCTS for which the claim is submitted. If the said variation is less than 15%, the buyer is required to accept delivery of the PRODUCTS, but is entitled to a proportionate discount.
- 7.7 If, in the case of part deliveries, the buyer files two claims regarding part deliveries and such claims are not upheld on assessment, the seller has the right to terminate the outstanding part of the purchase agreement and to claim damages. The buyer should be notified immediately, by registered letter, of any decision to do so.
- 7.8 At its discretion, the seller shall replace deliveries refused on admissible grounds (subject to availability), or shall deduct such deliveries from the quantity of products sold.

Force Majeure

Article 8

- 8.1 In the event of force majeure, the seller has the right to suspend compliance with its commitments under the sales agreement while the circumstances in question pertain.
- 8.2 If such circumstances persist for a period of more than two weeks, or if it is immediately clear that this will be the case, the seller has the right to terminate the outstanding part of the purchase agreement, without liability for the buyer's damages.
- 8.3 The seller shall notify the buyer immediately if it avails itself of the rights described in Clauses 1 and 2 of this Article, and shall confirm such notification in writing.
- 8.4 'Force majeure' is deemed to refer to all circumstances that could not have been foreseen when the agreement was contracted, for which the seller cannot be held responsible and as a result of which compliance with the agreement is practically impossible or becomes so difficult that it cannot reasonably be required of the seller. Force majeure within the meaning of the preceding sentence, i.e. circumstances for which the seller is not responsible and/or does not bear the risks or costs, are deemed to include war, mobilisation, strikes at supplier companies, fires at business premises, extreme weather conditions that obstruct logistical operations etc., failure on the part of suppliers of the seller, as well as full or partial failure of harvests due to abnormal drought or continual and/or intensive rainfall, frost, crop diseases, pest plagues, radioactivity etc. in the region from which the seller normally buys the raw materials.
- 8.5 In the event of government measures restricting import, transit or export of sold

PRODUCTS, or measures that make such activities financially disadvantageous, the seller has the right, at its discretion:

- to terminate the agreement, in so far as still outstanding, with no ensuing liability for damages on its part, or
- to perform the agreement and to demand compensation from the buyer in respect of the loss ensuing from the performance of same in connection with the said government measures.

Harvest Proviso

Article 9

- 9.1 All offers and agreements with the seller are made under harvest proviso. If due to a disappointing harvest regarding the quantity and/or quality of the agricultural products required for the production of the PRODUCTS (hereinafter 'raw materials'), less raw materials are available, which also includes the rejecting thereof by the competent authorities, than at the time the agreement was concluded or the offer was made could reasonably be expected, the seller has the right to decrease pro rata the quantities sold or offered. By the delivery of the quantum, so decreased, the seller will fully comply with its delivery obligations. In that case the seller shall not be obliged to deliver replacing agricultural PRODUCTS and shall not be liable for any damage whatsoever.

Compensation for Damages

Article 10

- 10.1 The seller's liability for damages shall never, therefore also not in the event of failure to deliver, late delivery or incorrect delivery, exceed the sale price or the invoiced price of the goods in question. The seller is not liable for consequential damages, loss of profits or any other damages other than those referred to above, in any circumstances or on any grounds whatsoever.
- 10.2 If the buyer fails to meet its contractual commitments, or fails to do so correctly, the seller has the right to claim full compensation for damages. Such damages shall in any event, and firstly, include Euro 15.00 per 100 kg. of non-accepted PRODUCT, increased by twice the difference between the market price of the raw materials on the date on which the agreement was contracted and the corresponding market price on the date of the shortcoming for which the buyer is liable. This is without prejudice to the right of the seller to claim compensation in respect of the actual damages.
- 10.3 A buyer responsible for default becomes liable for damages solely by the fact of non-acceptance or late acceptance, regardless of whether or not the seller has already produced the sold PRODUCTS and regardless of whether or not the seller could have, or has already sold the non-accepted PRODUCTS to other parties.
- 10.4 Any claims of the buyer on the seller, on any grounds whatsoever, shall become barred 12 months after the claim has arisen.

Payment

Article 11

- 11.1 Invoices fall due within 14 days of the invoice date, unless otherwise agreed. All payments shall be made in full, with no deductions or settlement of receivables.
- 11.2 In the event of late payment the buyer shall owe interest at 1% per month, without notification of default, with each part of a month being assessed as a full month. The foregoing applies notwithstanding the right of the seller to demand payment of the statutory commercial interest and charges.
- 11.3 In the event of failure to pay invoices by the due date, the seller has the right to suspend further deliveries until outstanding invoices are settled or, at the seller's discretion, until a bank guarantee or other form of security has been provided for outstanding payments of completed and future deliveries.
- 11.4 The seller also has the right to require a bank guarantee or other form of security if it has sound reasons to doubt the buyer's solvency prior to delivery.
- 11.5 If the buyer continues to default on payment of an overdue purchase price for more than 48 hours after a summons to pay has been issued in writing, the seller has the right to terminate the outstanding part of the purchase agreement, with full rights to compensation for damages. The buyer shall be notified accordingly immediately in writing. The buyer can derive no rights to claim damages from such termination of the purchase agreement.
- 11.6 In all cases, payments made by the buyer shall first be applied to settle interest and expenses due, followed by the invoice amounts outstanding for the longest period, even if the buyer states that payment relates to an invoice of a later date.
- 11.7 The seller has the right to instruct third parties to arrange collection of overdue invoices. All costs involved in collection of such receivables, including extrajudicial costs, shall be borne by the buyer. The extrajudicial costs will be subject to a minimum fixed charge of 10% of the principal with a minimum of Euro 125.00, irrespective of whether such costs are actually incurred. If the actual costs are higher than the fixed sum, the balance must be paid by the buyer. Furthermore the buyer shall owe the actual costs of the procedure incurred or to be incurred by the seller, including translator, bailiff, witness, expert, lawyer, arbiter and court costs.
- 11.8 The seller has the right to deduct all that the buyer and its affiliates owe or will owe to the seller from all that the seller owes to the buyer.

Reservation of Title

Article 12

- 12.1 Products delivered by the seller remain the seller's property until such time as the buyer has fulfilled all payment obligations under all purchase agreements concluded with the seller.
- 12.2 Products delivered by the seller and covered by the reservation of title described in Clause 1 of this Article, may be resold only in the course of normal business operations. The buyer does not have the right to pledge such products or encumber them in any other way. The

buyer is obliged to take due care of the PRODUCTS at all times.

- 12.3 Should third parties wish to establish or claim any rights to PRODUCTS delivered under reservation of title, the buyer is required to notify the seller of this fact as soon as reasonably possible.
- 12.4 If a reservation of title to any products delivered, at any time, is void or voidable, a reservation of title shall at any rate apply to delivered PRODUCTS for which payment is still outstanding.
- 12.5 Reservation of title is upheld, even after delivered PRODUCTS are no longer present in the form and packaging in which they were delivered by the seller. The buyer has full rights to resell or process the PRODUCTS in the normal manner, but until such time as payment therefor has been settled in full, the buyer confers on the seller all rights and claims which the buyer obtains at resale, handling or processing of the delivered goods and the buyer does not have the right to surrender the PRODUCTS or the processed PRODUCTS to third parties, or to allow them to serve as third party security, in the broadest sense of the word. The buyer shall bear the risk of the PRODUCTS.
- 12.6 In the event of non-payment, a moratorium on payments or winding up of the buyer, the seller has the right to repossess the PRODUCTS or processed PRODUCTS and to enter the land and buildings of the buyer and third parties for that purpose.
- 12.7 The buyer shall be credited for PRODUCTS or processed PRODUCTS repossessed on the grounds of this Article, at the current market value of the PRODUCTS or processed PRODUCTS on the repossession date or if lower, the invoice price, in all cases including the incurred costs (in connection with repossession).

Product Liability

Article 13

- 13.1 The seller is not liable for any damages caused to the buyer's personnel and/or property, or to those of third parties, by contractual delivery of PRODUCTS, unless such damages are the result of malicious intent or gross negligence on the part of the seller.
- 13.2 The buyer is required to indemnify the seller against third party claims for any damages whatsoever to persons and/or property arising from the delivered PRODUCTS, and against all damages and costs resulting from such claims.

Ingredients

Article 14

- 14.1 If the seller has been obliged to purchase ingredients, packaging or other materials specifically for purposes of performing its agreement with the buyer, for example, though not exclusively, where the buyer accepts delivery of PRODUCTS under its own trademark or if a PRODUCT is produced in accordance with a product specification provided by the buyer, the buyer shall bear the relevant costs, including those of surplus materials, and shall pay these to the seller.

- 14.2 If deliveries are made on pallets, the seller has the right to charge the buyer for such pallets, at cost. The buyer has the right to return pallets of an identical type, size and quality, as determined by the seller, after which the seller shall credit the buyer the amount charged for those pallets.

Disputes

Article 15

- 15.1 All disputes between the seller and the buyer shall be settled, to the exclusion of the ordinary courts, in compliance with the provisions of the arbitration rules accompanying these General Terms and Conditions of Sale, providing that one of the parties, i.e. the buyer or the seller, or both, is/are members of the VAVI or is/are affiliated to a member of the VAVI. If neither the buyer nor the seller is a member of the VAVI nor is affiliated to a member of the VAVI, the arbitration board is not competent to hear a dispute and the relevant matter should be submitted to the civil courts for settlement.
- 15.2 By way of departure from Clause 1 of this Article, the seller has the right to summon the buyer to pay for delivered PRODUCTS and/or to pay damages for non-acceptance of purchased PRODUCTS, at its discretion, before the court in Rotterdam, or in the buyer's or the seller's place of residence or establishment.
- 15.3 If the buyer is domiciled or registered in a country that requires the buyer to sign the arbitration clause, or explicitly accept the competence of the arbiters, before the arbitration clause and/or the competence of the arbitration tribunal become valid in law, and if this requirement has not been met, the seller has the right to summon the buyer before the court in Rotterdam, or in the buyer's or the seller's place of residence or establishment, at the seller's discretion, in respect of all disputes referred to in Clause 1 of this Article.
- 15.4 The nullity or nullification of one or more Clauses of these Terms and Conditions does not affect the other provisions.

The Hague, 19 February 2016

V.A.V.I. ARBITRATION REGULATIONS

General Conditions

Article 1

- 1.1 These Regulations cover applications for arbitration and arbitration hearings in all disputes arising from agreements subject to the V.A.V.I. Terms and Conditions.

Article 2

- 2.1 The Secretariat of the V.A.V.I. established at Schenkkade 50, 13th floor, 2595 AR The Hague, the Netherlands, telephone 070-3365272, email: info@vavi.nl is responsible for receiving applications for arbitration, forming arbitration tribunals, appointing clerks, arranging arbitration hearings and organising all related matters.

Article 3

- 3.1 The V.A.V.I. Board shall draw up a list of at least 12 persons who are willing and competent to act as arbiters (List 1). This list shall include a similar number of persons from processing industry circles and from the circles of the buyers.
- 3.2 The Board shall also prepare a list of four persons, not necessarily originating from the above circles, who are competent and willing to act as chairman of arbitration tribunals (List 2).
- 3.3 The Board shall draw up a list of three legal advisers, holding a Master of Law degree from a Dutch University, who will act as clerks of the arbitration tribunals if necessary (List 3).
- 3.4 The V.A.V.I. Board may review these lists periodically, will in any event review them every three years, and shall arrange changes and additions if necessary.

Article 4

- 4.1 Arbitration tribunals shall consist of three arbiters, i.e. a chairman and two members.
- 4.2 The Secretary of the V.A.V.I. shall appoint a clerk for an arbitration tribunal if the case involves an amount in excess of Euro 25,000.00, and in all other cases where he considers this appropriate. The appointment may be waived if the tribunal chairman considers this unnecessary.

Article 5

- 5.1 Arbiters shall pronounce judgement fairly and justly.
- 5.2 Unless otherwise agreed by the parties, arbitration tribunals shall be conducted in Dutch or English and shall apply Dutch law and the V.A.V.I. Terms and Conditions. Dutch law shall apply in any event in formal legal proceedings.
- 5.3 Arbitration tribunals shall serve until a final judgement is pronounced, without prejudice to

the opportunities for rectification and supplementation as stipulated in the Dutch Code of Civil Procedure.

Applications for arbitration and formation of arbitration tribunals

Article 6

- 6.1 Disputes shall be brought before arbitration tribunals on submission of a written application for arbitration to the Secretariat of the V.A.V.I., at Schenkkade 50, 13th floor, 2595 AR The Hague, the Netherlands.
- 6.2 Applications shall include:
- a. The plaintiff's first name, surname and residential or registered business address, with telephone and facsimile numbers;
 - b. The defendant's surname and residential or registered business address, with telephone and facsimile numbers if possible;
 - c. A full and clear description of the dispute, stating all relevant facts and formulating the plaintiff's claim;
 - d. A photocopy of the agreement on which the plaintiff's claim is based, and of the agreement which, in the plaintiff's view, provides grounds for the competence of the arbitration tribunal;
 - e. The name of the arbiter in List 1 selected by the plaintiff.

Article 7

- 7.1 Arbitration applications shall be submitted to the Secretariat of the V.A.V.I. no more than three months after it becomes clear that the dispute cannot be settled amicably between the parties, on pain of forfeiture of the right to apply. The three-month period commences when the first party notifies the second, by registered letter, that in its view, the dispute cannot be settled amicably and that the term of three months has therefore commenced. That term is deemed to commence on the date on which the said letter is received by the party in question.
- 7.2 Arbitration applications may be submitted by means of written communication and by electronic means as referred to in Article 1072b of the Dutch Code of Civil Procedure. If applications fail to meet the requirements set, the Secretariat of the V.A.V.I. shall offer the plaintiff an opportunity to make the necessary adjustments thereto.
- 7.3 If the plaintiff does not select an arbiter on application, the Secretariat of the V.A.V.I. shall send him a copy of List 1, by return of post if possible, requesting that he do so within eight days. If the plaintiff then fails to respond, the Secretary of the V.A.V.I. shall select an arbiter from List 1 himself.
- 7.4 Notifications
The arbitration office shall send requests/notifications to one or more parties electronically by email if parties have provided their email address, indicating they can be reached electronically. Other statements and exhibits may be introduced by email.

Article 8

- 8.1 The Secretary of the V.A.V.I. shall send the defendant a copy of the application for arbitration, together with appendices, by registered mail. He shall include the list of arbiters (List 1).

He shall afford the defendant an opportunity to select an arbiter from that list within 14 days, and shall appoint one himself if the defendant fails to do so.

- 8.2 Selection of an arbiter does not prejudice the parties' right to appeal on the grounds of the arbitration tribunal's non-competence, due to the absence of a valid arbitration agreement.
- 8.3 After both arbiters have been appointed, the Secretary of the V.A.V.I. shall appoint a tribunal chairman from List 2 and, if necessary, a clerk from List 3.

Article 9

- 9.1 When sending the copy of the application for arbitration to the defendant, the Secretary of the V.A.V.I. shall also afford him an opportunity to submit a written defence, in five-fold, within four weeks. The Secretary is authorized to extend this term, if there is reason to do so.
- 9.2 A defendant wishing to appeal on the grounds of the non-competence of the arbitration tribunal, based on the lack of a valid arbitration agreement, must make this appeal in respect of all defence pleas. An appeal on these grounds must be submitted in a separate motion, prior to his defence statement, or at the latest, in his defence statement, or, if he does not reply in writing, at the start of his oral plea. Should the defendant fail to do so, he forfeits the right to appeal later on the grounds of the non-competence of the arbiters, unless he appeals on the grounds that the dispute is not amenable to arbitration.
- 9.3 The arbitration tribunal itself shall rule on appeals on the grounds of its non-competence.

Requirements for arbiters and the opportunity to challenge

Article 10

- 10.1 Arbiters shall be independent and impartial and may not be involved in the dispute in any way, nor be in a position to benefit from it.
- 10.2 Arbiters may not have close ties with the person or enterprise of either party.
- 10.3 Arbiters may not have advised either party beforehand regarding the dispute, nor have acquainted either with their views on the dispute.
- 10.4 Arbiters may not come to an understanding with one of the parties outside the arbitration proceedings.
- 10.5 Persons asked to serve as arbiters, and who believe they do not satisfy the above requirements, are required to notify the Secretary of the V.A.V.I. accordingly and to refuse the assignment.

Article 11

- 11.1 The Secretary of the V.A.V.I. shall confirm arbiters' appointments in writing. Such appointments must be accepted in writing, by returning a copy of the letter of appointment signed for approval.
- 11.2 As soon as the arbitration tribunal has been formed, the parties shall be notified accordingly

in writing by the Secretary of the V.A.V.I., stating the name of the clerk where relevant.

Article 12

- 12.1 An arbiter who has accepted an appointment can be relieved of it at his own request or, at the request of both parties, by the Secretary of the V.A.V.I. Relief can also be granted at the written request of one of the parties, in the event that an arbiter is lawfully or in fact no longer fit to fulfil his task.
- 12.2 An arbiter who has been relieved of his duty shall be replaced by a new arbiter assigned in the same manner as the one to be replaced.

Article 13

- 13.1 An arbiter can be challenged in such cases and by such means as are stipulated in Article 1033 et seq of the Dutch Code of Civil Procedure.

Procedure

Article 14

- 14.1 The Secretariat of the V.A.V.I. shall inform plaintiff, together with the notice of the formation of the arbitration tribunal, of the amount payable to the Secretariat of the V.A.V.I. as an advance on costs related to the arbitration proceedings, stating the term within which payment is due.
- 14.2 If payment is not made in time, the Secretariat of the V.A.V.I. will remind plaintiff of his obligation to pay, by registered letter, stating the final date by which payment must be received. If payment is not made by that date, the application for arbitration shall lapse.
- 14.3 During the arbitration proceedings, the chairman of the arbitration tribunal can ask the parties for payment of an additional advance, subject to the conditions described in Clause 14.3 above.

Article 15

- 15.1 The chairman of the arbitration tribunal shall take such measures as are required to ensure that the arbitration proceeds properly and smoothly.
- 15.2 Immediately on receipt of the advance, the Secretary of the V.A.V.I. shall send all documents relevant to the case to the chairman and the members of the arbitration tribunal.
- 15.3 The chairman may permit the parties to exchange further replies, within a term he shall fix. Should he see no reason to permit this, he will set a date, time and place for the oral hearing. Arbitration and the oral hearing shall take place in The Hague, as will the pronouncement of judgement. The chairman may set a different location for the oral hearing and any questioning of witnesses, if there is reason to do so. The chairman shall ensure that the parties are called to appear in time, by registered letter.
- 15.4 The chairman shall ensure that the parties are treated equally and shall afford each one an opportunity to assert its rights and put forward its position.

Article 16

- 16.1 Each party may appear before the arbitration tribunal in person or be represented and assisted

by a lawyer or a proxy authorized to that end in writing. The other party must be afforded adequate notice hereof so as to enable the other party to seek similar representation.

Article 17

- 17.1 The defendant is authorized to submit a counterclaim, no later than at the time of his reply or, failing this, at the first oral hearing, providing the counterclaim is based on an agreement which is subject to the V.A.V.I. Terms and Conditions.
- 17.2 Up to 14 days prior to the date of the oral hearing, either party may submit additional written statements to the tribunal, care of the Secretariat of the V.A.V.I., which will immediately send a copy to the other party, in order to increase a claim or to supplement or alter the grounds for the claim. The other party has the right to lodge an objection.
- 17.3 The arbitration tribunal may reject the requested increase, supplement or change if it represents an unacceptable hindrance to the other party's defence or if it would cause too great a delay in the arbitration proceedings.

Article 18

- 18.1 During the oral hearing, the chairman shall afford both parties an opportunity to clarify their positions.
- 18.2 The parties may waive an oral hearing, providing they agree thereto, and request judgement on the basis of the defence.
- 18.3 When calling the parties for the oral hearing, the arbitration tribunal may inform them that they have the right to call witnesses. If the parties wish to avail themselves of this right, they shall submit the names and addresses of the witnesses to the tribunal chairman and the other party at least eight days before the hearing.

Article 19

- 19.1 The arbitration tribunal has the right to issue an order to present evidence, in a form drawn up by the tribunal itself, to either party where relevant.
- 19.2 The date, time and place for the tribunal's hearing of witnesses shall be fixed at the same time. The parties should attend this hearing in person if possible.
- 19.3 The arbitration tribunal also has the right to order the parties to appear. If either fails to do so without a valid reason, the tribunal can draw any conclusion that it sees fit from such failure to appear.

Article 20

- 20.1 The plaintiff may withdraw its claim at any time. However, during or after the oral hearing, this may only be done subject to the defendant's consent or if the withdrawing party pays the other party the amount determined by the arbitration tribunal in respect of its costs.
- 20.2 Furthermore, the plaintiff must then recover the arbitration costs, as determined by the chairman of the arbitration tribunal, from the advance it has paid.

Article 21

- 21.1 If the defendant does not submit a reply, within the meaning of Article 9, within the period

set by the Secretariat of the V.A.V.I., does not request deferment or does not avail itself of a deferment once this has been granted, or if it fails to appear at the session for the oral hearing, the arbitration tribunal can pronounce judgement immediately. In that case, the claim shall be granted, wholly or in part, unless the arbitration tribunal considers it unfounded or illegal. The arbitration tribunal has the right, before awarding that claim, to require the plaintiff to provide evidence for one or more of its positions.

- 21.2 If the plaintiff does not avail itself of the opportunity for a rejoinder, fails to appear without a valid reason at the oral hearing, fails to provide information requested by the arbitration tribunal or fails to appear at hearing when ordered to do so by the tribunal, the arbitration tribunal can regard the plaintiff's claim as withdrawn.
- 21.3 The arbitration tribunal may settle costs incurred to date against the advance paid by the plaintiff. The arbitration tribunal may also determine that the withdrawing party must cover the costs of the other party in full or in part.

Article 22

- 22.1 At any stage in the proceedings, the arbitration tribunal may, at the request of either party, hand down a temporary ruling or issue instructions to the parties, which are necessary or desirable in order to prevent damage, clarify facts or to obtain information for the judgement of the dispute, in the form of an arbitral interim judgement.
- 22.2 The arbitration tribunal shall be entitled to pronounce judgement in the principal case as it sees fit, without regard to these measures.

Article 23

- 23.1 A third party having an interest in the arbitration, as conducted by virtue of these regulations, can request the arbitration tribunal to allow it to join the proceedings or to intervene in them.
- 23.2 Either party can request the arbitration tribunal to serve a third party notice if it believes it has sound reasons, for instance because another party must indemnify him against the adverse consequences of a conviction or because he can settle the consequences of that conviction with another party.
- 23.3 Requests to join, intervene or to serve a third party notice must be addressed to the chairman of the arbitration tribunal in writing. A request for a third party notice must be submitted no later than 14 days prior to the oral hearing, to the Secretariat of the V.A.V.I.
- 23.4 The arbitration tribunal shall decide on this after hearing the parties in this matter, which is to say those who have been afforded the opportunity to express themselves on this matter.
- 23.5 Requests to join, intervene or serve third party notice can be granted only if the third party has joined the arbitration by means of a written agreement with the parties or is a party to an agreement subject to the V.A.V.I. Terms and Conditions. On admission of a request to join, intervene or serve third party notice, the third party becomes a party in the arbitration.

Sentences

Article 24

- 24.1 The arbitration tribunal shall endeavour to pronounce judgement as soon as possible. It may hand down an interim judgement instructing the parties to supply further information, instruct one or more parties to provide proof or order the parties to appear in order to test a settlement.

Article 25

- 25.1 The arbitration tribunal shall make decisions by a majority of votes.
- 25.2 The arbitral judgement shall be signed by the chairman and the arbiters and, if a clerk was appointed, also by the clerk. Should an arbiter refuse to sign the judgement or should an arbiter not be capable, then this shall be stated by the other arbiters in the judgement they sign, and they shall also sign that statement.
- 25.3 Judgements shall include the initials, names and the places of residence of the arbiters, as well as those of the parties.
- 25.4 Judgements shall also contain a brief review of the procedure, a record of the claim, any counterclaim and the defence, as mounted by the defendant.
- 25.5 The findings leading to the judgement shall then be recorded, together with the decision itself.
- 25.6 The arbitration tribunal shall determine the costs of the arbitration and, in principle, sentence the party that lost the case to pay those costs, after the plaintiff has paid such arbitration costs by way of an advance to the Secretariat of the V.A.V.I.
- 25.7 The arbitration costs can include the legal costs of the losing party or a part thereof to be determined by the arbitration tribunal.
- 25.8 The arbitration tribunal may divide the costs between the parties in the way it sees fit, if it considers that there are grounds to do so.

Article 26

- 26.1 The Secretary of the V.A.V.I. shall ensure that each party is sent a copy of the judgement signed by the arbiters, by registered letter.

Article 27

- 27.1 If a clerk was appointed for the arbitration tribunal, the tribunal can also assign the activities of the Secretariat of the V.A.V.I., as described above, to the clerk.

Article 28

- 28.1 Since no appeal is allowed against the judgement of the arbitration tribunal, it is binding for parties as of the day on which it is pronounced and they are bound to comply with it.

Article 29

- 29.1 In all cases requiring immediate advance action as a matter of urgency, the plaintiff may appeal to the Secretary of the V.A.V.I., requesting immediate appointment of a chairman from List 2 for a hearing of that claim in summary proceedings.
- 29.2 The chairman will then instruct the Secretary of the V.A.V.I. to call the parties at a time and place which he shall determine. This term shall allow the defendant a reasonable opportunity to appear in time and to prepare his defence.
- 29.3 The plaintiff shall attach to his request, submitted in duplicate to the Secretary of the V.A.V.I., an account of his claim, together with the grounds on which the claim is based. Documents showing that the agreement is subject to the V.A.V.I. Terms and Conditions must be provided, together with any further documentary evidence in support of the claim.
- 29.4 The Secretary of the V.A.V.I. shall attach to his summons of the defendant a copy of plaintiff's account and all documents relating to it.
- 29.5 The chairman can by judgement, in accordance with the claim, sentence the defendant to that which he deems justified and fit. His decision can be effected immediately. No higher appeal is possible against this decision. As it does not detrimentally affect the main issue, the arbitration tribunal is not bound in the main issue to the sentence pronounced in the summary proceedings.
- 29.6 The other stipulations of these regulations apply, by analogy where relevant, to summary proceedings.

Article 30

- 30.1 In the cases as intended in Articles 1060 and 1061 of the Dutch Code of Civil Procedure the arbitral judgement may be improved, respectively supplemented, in the manner recorded in those articles.
- 30.2 The V.A.V.I. is authorized to publish or have published a summary of the judgement, without stating the names of parties or other details which could reveal the identity of parties, unless a party objects to this to the V.A.V.I. within four weeks of the judgement being forwarded.

Article 31

- 31.1 The general meeting of the V.A.V.I. may at any time make changes to these Arbitration Regulations. Such changes shall not apply to arbitration cases brought before an arbitration tribunal before the date on which they take effect.

Adopted by the general meeting of the V.A.V.I. in The Hague, the Netherlands, on 19-02-2016.

ASSOCIATION OF THE POTATO PROCESSING INDUSTRY

Schenkkade 50
2595 AR The Hague, the Netherlands
Telephone + 31 (0)70-3365272

Email: info@vavi.nl