

FRUIT-GROWING AGREEMENT CEPUNA c.o.v.

1: Definitions

In the present agreement, the following terms shall have the following meanings:

- 1.1. Patents/Plant variety rights : the USA plant patent 2547/002, applied for on 10/10/2012, the Community plant variety right number 2013/0730, applied for on 28/02/2013 and every patent, plant variety right or form of intellectual property available for plants, with the exception of the Marks, applied for The Variety, on behalf of INRA;
- 1.2. Marks : the word marks, logos and/or semi-logos, which, in relation to The Variety, will be determined and registered by CEP INNOVATION in no less than class 31;
- 1.3 The Variety : the pear variety Cepuna, each variety derived from the Cepuna variety within the meaning of article 13.5a) and 13.6 of the Council Regulation (EC) no. 2100/94 of July 27th 1994 on 'Community plant variety rights'; each variety which is not distinct from the Cepuna variety within the meaning of article 13.5b) of Council Regulation (EC) no. 2100/94 of July 27th 1994 on 'Community plant variety rights'; and more generally, all of the material which is subject to the protection granted by the intellectual property rights;
- 1.4. Fruit : pears of the Variety.
- 1.5. EFC : The cooperative partnership with limited liability Europese Fruit Coöperatie (EFC) with registered office at 3840 Borgloon, Kernielerweg 59, which obtained an exclusive licence from CEP.
- 1.6. Product royalty : the royalties payable for the Fruit which is sold as agreed upon in articles 3.3 up to and including 3.4.
- 1.7. Tree royalty : the royalties due for each tree of The Variety purchased by the Grower, as agreed upon in article 3.2.
- 1.8. Territory: the country where the registered office of the Grower is established.
- 1.9. Tree : tree of The Variety, originating from a Recognised Tree Nursery.
- 1.10. Recognised Tree Nursery : any tree nursery, explicitly recognised as such by EFC, and which – to that end – concluded a valid licensing agreement with EFC beforehand.
- 1.11. Recognised Reseller : any reseller, explicitly recognised as such by GKE, and who – to that end – concluded a valid agreement with GKE.
- 1.12. Recognised Growers' Association : any growers' association meeting the recognition requirements of Regulation 2200/96 and Regulation 1432/2003, and explicitly recognised as such by GKE.
- 1.13. Specifications : the specifications (care systems including usage requirements, standards, etc.), drawn up and updated/reviewed from time to time by GKE.
- 1.14. Quality specifications : the quality specifications (quality manual), drawn up by GKE.

2: General conditions GROWERS

GKE grants the **GROWER** – who accepts – a limited non-exclusive and non-transferable right to grow the Fruit of The Variety in commercial orchards through the purchase, exclusively via a Recognised Tree Nursery (via the mediation of **EFC**), of Trees of The Variety and to exclusively sell or have sold this Fruit of The Variety to a Recognised Reseller, who is also the **RECOGNISED GROWERS' ASSOCIATION** of which the **GROWER** is a member.

In the event that the **GROWER** is a member of a **RECOGNISED GROWERS' ASSOCIATION**, which is not a Recognised Reseller, **GKE** grants the **GROWER** the right to exclusively sell or have sold this Fruit of The Variety to a Recognised Reseller, possibly via the mediation of

the **RECOGNISED GROWERS' ASSOCIATION** of which the **GROWER** in question is a member.

If the mediation of a **RECOGNISED GROWERS' ASSOCIATION** is required under the conditions of the previous section, then such **RECOGNISED GROWERS' ASSOCIATION** undertakes towards **GKE** to only and exclusively sell or have sold the Fruit of The Variety grown by the **GROWER** under the previous section, to a Recognised Reseller.

On the basis of the planting location and planting distance of the Trees indicated by the **GROWER**, and based on the amount of Trees invoiced to the **GROWER**, **EFC** shall send an overview to the **GROWER**.

If the **GROWER** does not agree with the received overview, it must inform **EFC** of such in writing, at the latest within 14 days of receiving the overview.

The **GROWER** undertakes to regularly consult the Specifications and the Quality Specifications on the website of **GKE** and to respect the contents of the Specifications and the Quality Specifications.

The **GROWER** undertakes to pay firstly a Tree Royalty and secondly a Product Royalty, as further determined in the present agreement.

The Tree Royalty is included in the price of the tree.

The **GROWER** undertakes to pay **EFC** for the Trees. This payment shall take place at the latest one month after the purchase of the Trees.

All Trees shall remain the property of **EFC** until full payment of the due amounts by the **GROWER**.

The **GROWER** undertakes to inform **EFC**, on first request, where the Trees and Fruit are located, and that these shall be made available again to **EFC** at the expense and risk of the **GROWER**, if **EFC** makes such a request.

To the extent necessary, **EFC** is hereby granted an irrevocable take-back mandate, as well as a mandate to enter the necessary orchards where the Trees and/or Fruit are situated, and/or the premises of the **GROWER**.

The **GROWER** undertakes to pay the Product Royalty to **GKE** via the Recognised Reseller.

For sold class I Fruit, the product royalty amounts to:

€0.03 per kg plus at least €0.01 per kg for marketing efforts.

For sold class II Fruit, the product royalty amounts to:

- €0.02 per kg.

The Product Royalties shall be paid by the **GROWER** to **GKE** via the Recognised Reseller at the latest on 1 April, 1 July, 1 October and 1 December for the Fruit of The Variety which is sold in the preceding period. The **GROWER** undertakes to provide **GKE** with an overview, whenever **GKE** requests one, of the amounts of Fruit which have been sold to and/or via the Recognised Reseller.

The Product Royalty amounts shall automatically be indexed every year on 1 July, in accordance with the "Harmonized index of consumer prices ('HICP'), all items, Euro area (changing composition)" as published by Eurostat, with 31 December 2013 as the base index.

The **GROWER** undertakes to only use the Marks to sell or have sold the Fruit of The Variety to a Recognised Reseller, either via the mediation of the **RECOGNISED GROWERS' ASSOCIATION**, of which the **GROWER** in question is a member, or directly if the **GROWER** is not a member of a **RECOGNISED GROWERS' ASSOCIATION**.

At any time, GKE and/or EFC is authorised to have audited, by an accountant or auditor appointed by it, the relevant parts of the accounting and/or all other relevant documents (among others those that are stated in the Specifications) of the **GROWER** on the accuracy of the information provided. As such, all of the required information shall be made available to the accountant or auditor at the registered office of the **GROWER**, under penalty of damages of €1,000.00 per day of delay following the request of **GKE**.

5.2

The **GROWER** undertakes to inform **GKE** directly, or via the Recognised Reseller, of the (expected) harvest and the quality of the Fruit in a written report, on 1 June and 1 September every year.

More particularly, the **GROWER** shall inform **GKE and EFC** regarding:

- The quantity (in kg) of grown class I and class II Fruit; and
- The quantity (in kg) of sold class I and II Fruit, and to whom it has been sold.