

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF PIERRE DEN OUDEN PLANTS

B.V.
May 2011.

Article 1 — General

- 1.1 These General Terms and Conditions (hereinafter: Terms and Conditions) apply to all offers, orders and/or agreements between Pierre den Ouden Plants B.V. (hereinafter: the Seller) and Purchasers, intended for the sale and delivery of products and/or the provision of services and the performance thereof. Any deviations from or changes to these Terms and Conditions must be confirmed in writing by the Seller and will only apply to the relevant offer/order/agreement.
- 1.2 The "Purchaser" is understood to mean any natural person or legal entity to or for whom the Seller delivers goods and/or performs services, including its representatives, agents, and/or legal successors.
- 1.3 Any general terms and conditions applied by the Purchaser are non-binding on the Seller, unless the Seller has agreed to them in writing. If the Seller has agreed in writing with the applicability of one or more deviating terms and conditions, these Terms and Conditions shall remain in full force in all other respects.
- 1.4 If and insofar as any provision or subprovision of these Terms and Conditions is nullified and/or deemed unenforceable, these General Terms and Conditions shall remain in full force in all other respects, and instead of the nullified and/or unenforceable provision another provision shall apply that has the same purpose and purport to the extent possible.

Article 2 — Agreements, Changes and Prices

- 2.1 An order placed by the Purchaser will be considered by the Seller to be an irrevocable offer.
- 2.2 Descriptions and prices in offers are given subject to reservation and apply only by approximation, unless indicated otherwise. The Purchaser cannot derive any rights from any errors in an offer. Offers are given based on information and specifications provided by the Purchaser, and are based on delivery within normal terms and under normal circumstances.
- 2.3 The Seller is only bound by an order placed with the Seller vis-à-vis the Purchaser if and as soon as the Seller has confirmed such order in writing, or if the Seller has commenced performing such order.
- 2.4 Orders, confirmations of orders or other correspondence via e-mail and/or a signed fax are accepted by the parties as legally binding correspondence.
- 2.5 Any changes to an order placed by the Purchaser that entail higher costs than the costs taken into account in the original quotation provided by the Seller shall be paid by the Purchaser. If such changes lead to a cost reduction, the Purchaser cannot derive any right from this with regard to a reduction of the purchase price. However, the Seller may decide at its own discretion that such changes will result in a lower purchase price.
- 2.6 Changes to an order placed by the Purchaser can lead to a delivery period previously indicated by the Seller being exceeded. Such cannot be invoked against the Seller.
- 2.7 If the Purchaser cancels an order it has placed in part or in full, the Purchaser must reimburse the Seller for the ensuing loss incurred by the Seller. That loss is calculated as 30% of the net invoice value of the cancelled order. The Seller reserves the right to prove a higher amount of loss, in which case the Purchaser must pay the higher loss amount.
- 2.8 Agreements concluded with the Seller are conditional in the event of shortages and/or crop failures or other circumstances beyond the Seller's control that make delivery impossible.
- 2.9 Quoted prices are in euros, excluding VAT and ex works unless agreed otherwise in writing.

Article 3 - Delivery

- 3.1 Unless agreed otherwise in writing, delivery is carriage paid, with the understanding that transport costs will be charged through to the Purchaser.
- 3.2 The term of delivery indicated by the Seller is an estimate unless explicitly agreed otherwise in writing. The Seller is not in default by merely exceeding the term of delivery.
- 3.3 Failure by the Purchaser to have goods delivered in good time or to take receipt of goods in good time constitutes attributable non-performance by the Purchaser. In that event, the Seller may store the goods or have them stored at the Purchaser's expense or risk, or supply the goods to third parties if possible and recover the loss of income and any other losses from the Purchaser.
- 3.4 Delivery of products will be made in the packaging supplied by the Seller. The Purchaser undertakes to exchange multiple-use packagings (e.g. trolleys, containers, pallets, crates and the like) immediately upon delivery or, providing the next delivery takes place no later than three (3) weeks thereafter, to return these at the time of the next delivery. In any event, these packagings must be returned to the Seller in their proper state (the outside of the packagings may not be changed) within three (3) weeks. If these packagings are not returned to the Seller within three (3) weeks, transport costs will be charged and the normal rental fee will be charged as from the date of delivery.

Article 4 - Payment

- 4.1 Payment is to be effected in euros by means of SEPA transfer. If payment is not effected by means of SEPA transfer, any additional costs are at the Purchaser's expense.
- 4.2 The Purchaser shall effect payment to the Seller within thirty (30) days after the invoice date.
- 4.3 The Purchaser herewith waives its rights of setoff and suspension of performance. The Purchaser is only entitled to reduce payments on its own initiative after it has received a credit invoice from the Seller.
- 4.4 The Seller undertakes to invoice in good time. Partial invoicing is possible at all times unless explicitly agreed otherwise in writing.
- 4.5 In the event of an overrun of the payment term agreed in Article 4.1 of these Terms and Conditions, the Purchaser shall - without prejudice to any other rights of the Seller, including the right to receive statutory interest - owe monthly default interest of two (2) percent on the (part of the) invoice (still owed) as from the date that the payment term is exceeded until the date of full payment of the invoice amount. In that event, the Seller will be entitled to demand immediate payment of all outstanding invoices and to suspend further deliveries until the entire invoice amount has been paid or sufficient security has been provided.
- 4.6 Once the Seller has transferred a claim for extrajudicial and/or judicial collection, for which no prior notification is required, the Purchaser shall owe all judicial and extrajudicial collection costs, which will be calculated based on the rate used by Netherlands Bar Association.
- 4.7 Payments effected by the Purchaser will first be used to pay all charges and interest due and subsequently to pay the oldest payable invoice, even if the Purchaser states that the payment relates to a later invoice.

Article 5 - Retention of Title

- 5.1 All goods delivered and yet to be delivered shall remain the Seller's exclusive property until all claims the Seller has or will have against the Purchaser, including in any event the claims stated in Book 3, Article 92 (2) of the Dutch Civil Code, have been paid in full.
- 5.2 As long as the ownership of the goods has not transferred to the Purchaser, it is not authorised to pledge the goods or grant third parties any rights on the goods, except within the normal conduct of its business. The Purchaser undertakes, upon first request by the Seller, to cooperate in creating a right of pledge on the claims the Purchaser has or will have against its purchasers pursuant to a resale of goods.

- 5.3 The Purchaser is obligated to store the goods delivered under retention of title with due care and as the recognisable property of the Seller.
- 5.4 If the buyer fails to perform its payment obligations or has or threatens to have payment difficulties, the Seller is entitled to retrieve the goods delivered under retention of title and still in the buyer's possession. The Purchaser shall provide the Seller with free access at all times to its sites and/or buildings for the purposes of inspection and/or exercising the Seller's rights.
- 5.5 Said provisions in 5.1 through 5.5 do not prejudice the other rights vested in the Seller.
- 5.6 With regard to a Purchaser established in Belgium, in the event of failure to pay on the due date, instead of Article 5.1 the Seller is entitled to consider the sale null and void by operation of law and without notice of demand. The Seller retains title of the goods until the price is paid in full. All risks are at the Purchaser's expense. Any advances paid remain acquired by the Seller as reimbursement of possible losses on resale.
- 5.7 With regard to a Purchaser established in the United Kingdom, the following applies supplementary to Articles 5.1 through 5.4: "Seller remains the owner of all goods supplied to the Purchaser until such time payment has been received in full from the Purchaser. The goods shall remain the property of Seller and the Purchaser shall store them carefully and so that they are readily identifiable as the Seller's goods, until such time as payment for them and for all other goods agreed to be sold to the Purchaser had been received in full. If the goods have been resold, Seller's beneficial entitlement shall be attached to the proceeds of the re-sale and will be able to claim the full purchase price of the proceeds received. Where ownership of any goods remains vested in Seller, Seller shall be entitled to repossess any goods supplied at any time. Seller may for the purpose of recovering its goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same. It is the sole responsibility of the Purchaser to ensure that all goods received from Seller are properly and fully insured against amongst others, without limitation, fire, theft, flooding, etc, until such time ownership of said goods has passed to the Purchaser. Should goods become damaged in any way after they have been received by the Purchaser, the Purchaser will be liable to pay to the Seller the full purchase price of the goods."

Article 6 - Complaints

- 6.1 The Purchaser is obliged to thoroughly investigate whether the products satisfy the agreement upon delivery. If the Purchaser has a complaint regarding any visible shortcomings of the products delivered, this is to be reported to the Seller immediately after discovery, or in any event within 24 hours of receipt, by fax, e-mail or telephone (followed by written confirmation by post, fax or e-mail), and specified by means of an accurate description of the shortcomings and any additional facts from which the shipment to which the rejected products belonged can be derived. The Purchaser or the receiver of the products, as the case may be, must also make written note of the complaint on the products' transport documents to confirm that the complaint existed at the time of delivery.
- 6.2 With complaints based on grounds that reasonably could not have been discovered within the term laid down in paragraph 1, a term applies of 24 hours from the time those grounds reasonably could have been discovered.
- 6.3 Once the terms referred to above have lapsed, the Purchaser is deemed to have approved the delivery and the relevant invoice, and complaints will not be addressed by the Seller with the exception of complaints regarding plant species.
- 6.4 Complaints with regard to a part of the products delivered cannot give cause to reject the entire delivery. In that case, the Purchaser is still obliged to pay for the part of the delivery without shortcomings.
- 6.5 Products sent by the Seller to the Purchaser can only be returned to the Seller after written consent from the Seller and under conditions to be determined by the Seller. The costs of the return are at the Purchaser's

expense unless the costs pertain to a return with regard to which the Seller has established that the products have shortcomings for which the Seller is liable.

Article 7 - Liability

- 7.1 The Seller's liability is limited to the performance of the agreement between the parties. Any liability for consequential damage and/or damage at the Purchaser or third parties, on any ground whatsoever — except in the case of intent or gross negligence — is explicitly excluded. In the event of non-performance the Seller is merely obliged to replace the products or repay the purchase price, at its own discretion.
- 7.2 The Seller is not responsible for the result from planting or manipulating the plants delivered to the Purchaser. The Seller is only liable for the delivery of products in accordance with the (genus) species described on the order confirmation or in the invoice description.
- 7.3 The Purchaser is obligated to indemnify the Seller and hold it harmless from and against any and all claims for damages by third parties engaged by the Purchaser vis-à-vis the Seller regarding the performance of any agreement between the Purchaser and the Seller, unless the Seller is guilty of intent or gross negligence.

Article 8 - Provision of Security

- 8.1 If the Seller has cause to suspect that the Purchaser will be unable to perform its obligations by virtue of the agreement, the Purchaser is obligated to provide, upon the Seller's first request, sufficient security for complete performance of all its obligations with regard to agreements performed or to still be completely or partially performed, in a manner to be indicated by the Seller.

Article 9 - Suspension. Termination, Force Maieure

- 9.1 If the Purchaser fails to meet any obligation vis-à-vis the Seller in any manner, as well as in the event of (a request for) suspension of payments, bankruptcy, liquidation or discontinuation of all or part of the Purchaser's business, the Seller is authorised, without prejudice to its other rights and without any obligation to pay damages, without notice of default or judicial intervention, to suspend performance of the agreement until payment of all that the Purchaser owes the Seller has been sufficiently secured; and/or to terminate every agreement with the Purchaser in full or in part, all without prejudice to the Purchaser's obligation to pay for products already delivered and/or services already provided and without prejudice to the Seller's other rights, including the right to damages.
- 9.2 In the event that the Seller is unable to perform the agreement as a result of force majeure, (which is understood to include frost, natural disasters, war, threat of war, civil war, riots, labour strike, fire and any other disruption in the Seller's operations), the Seller is entitled to suspend performance of the agreement without judicial intervention or to terminate the agreement in full or in part, without being obligated to pay any damages.

Article 10 — Transfer of Rights and Obligations and Use of Third Parties

- 10.1 The Purchaser shall not transfer its rights and/or obligations ensuing from any agreement with the Supplier to third parties or have them serve as security regarding claims by third parties, without the prior written consent from the Seller.
- 10.2 The Seller is authorised to engage third parties in the performance of an agreement on behalf of and at the expense of the Purchaser, if there is cause to do so in the Seller's opinion or if such ensues from the agreement.

Article 11 - Applicable Law, Competent Court

- 1 1.1 These Terms and Conditions and all legal relationships between the Seller and the Purchaser are governed by Dutch law, with the exception of Article 5.7, which will be governed by the law of the United Kingdom. Any applicability of the Vienna Sales Convention is explicitly excluded.
- 1 1.2 Insofar as the law does not imperatively prescribe otherwise, only the Amsterdam District Court will be competent at first instance to examine any disputes arising with regard to any agreement or the performance of any agreement between the Seller and the Purchaser, as well as disputes regarding these Terms and Conditions and provisions thereof, including in search of provisional relief.

Article 12 — Prevalence of Dutch Text

- 12.1 In the event of conflict between a translation and the Dutch version of these Terms and Conditions, the Dutch version shall prevail, with the exception of Article 5.7, with regard to which the English text shall prevail.

Article 13 - Filing

- 13.1 These Terms and Conditions have been filed with The Hague Chamber of Commerce under number 28095938.