

VAN LINT PRODUCTIONS GENERAL PURCHASE CONDITIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1. Unless stated otherwise, the capitalised terms have the following meanings:
- “Customer”**: Van Lint Productions, a private limited company (besloten vennootschap) under Dutch law, with its registered office in Boskoop and its principal place of business in (2771 AB) Boskoop, at Insteek 4, listed in the Commercial Register of the Chamber of Commerce under number 27322540;
 - “Supplier”**: every seller of (horticultural) products the Supplier enters into negotiations with and/or concludes an agreement with;
 - “Offer”**: an offer to conclude an Agreement;
 - “Agreement”**: the specific purchase agreement, concluded in writing or otherwise, between the Customer and the Supplier regarding the purchase of plants and/or flowers and all related items and/or services of the Supplier to the Customer including any schedules and/or amendments and/or supplements to it;
 - “Parties”**: the Customer and the Supplier, hereinafter individually referred to as the “Party”;
 - “Price”**: the purchase price payable by the Customer exclusive of any VAT but inclusive of all costs for delivery to a location to be designated by the Customer;
 - “Conditions”**: these general purchase conditions.
- 1.2. Any reference to ‘in writing’, ‘written’ or a similar term also comprises communication by e-mail unless explicitly provided otherwise.

2. APPLICABILITY

- 2.1. These Conditions apply to all Offers, Orders as well as to all deliveries made by the Supplier to the Customer and to all Agreements concluded in this regard.
- 2.2. Any Conditions of the Supplier, of whatever nature and however named, do not apply, unless explicitly agreed upon in writing.
- 2.3. Contrary and/or additional provisions must be agreed upon explicitly and in writing.
- 2.4. The Customer is entitled to unilaterally amend or supplement these Conditions. The Customer shall notify the Supplier of the amended or supplemented Conditions and publish the amended version on its website. One month after notification of the amended or supplemented Conditions, the amendments shall come into force and apply to all existing and future Agreements. The Supplier shall be given the opportunity in advance to read the amended or supplemented Conditions and to accept them. If the Supplier does not accept the amended or supplemented Conditions, the Supplier shall notify the Customer thereof in writing within 14 days. In that case, both Parties shall have the right to terminate the Agreement.

3. OFFERS AND AGREEMENTS

- 3.1. Any Offer made by the Supplier is binding on the Supplier, unless explicitly agreed otherwise.
- If a term is mentioned within which an Offer can be accepted, it always implies that the Offer is binding.
- 3.2. The Agreement is deemed to have been concluded if the Supplier has confirmed the order in writing. In the absence of such confirmation, the Agreement is deemed to have been concluded if it is actually executed by the Supplier.
- 3.3. If an Agreement has been concluded through the intervention of agents and/or other intermediaries and/or resellers, this Agreement shall only be binding on the Customer if the Customer has accepted it in writing.

4. PRICES

- 4.1. The Prices are in euros (€), unless indicated otherwise.
- 4.2. The (quoted) prices are exclusive of VAT, but inclusive of other costs, such as transport costs, freight costs, packaging costs, costs of quality control and/or phytosanitary inspection, import duties, government and other official levies, insurances as well as fees by virtue of plant breeders’ rights or licences and any other fees, unless agreed otherwise in writing.

5. DELIVERY TIME AND TRANSPORT

- 5.1. Delivery shall be carriage paid (delivered duty paid DDP), as provided in the Incoterms 2010, unless otherwise agreed. Transport in the broadest sense of the word is at the Supplier’s full expense and risk up to and including the time of delivery.
- 5.2. The products shall be delivered by the Supplier to the Customer at the Customer’s location at Insteek 4, in (2771 AB) Boskoop (unless Parties have agreed a different location) on a date and time jointly agreed by the Parties.
- 5.3. Agreed delivery periods or delivery dates are final, unless the Parties have expressly agreed otherwise in writing. If the Supplier has failed to deliver on the agreed date or within the agreed period, the Supplier shall be in default without any notice of default being required.
- 5.4. Delays in delivery due to customs formalities must be taken into account in the delivery periods or delivery dates by the Supplier. Such delays shall be at the Supplier’s expense and risk and leave the provisions of this Article unaffected.
- 5.5. The Customer has the right not to accept products that have not been delivered on time, so that no delivery is deemed to have taken place. In the event that the Customer accepts the delivery, the Supplier shall be liable for all (consequential) damages suffered and to be suffered by the Customer as a result of the late delivery. Products that were delivered late, which have been unloaded, shall remain at the Supplier’s expense and risk until the Customer returns them or, if the Supplier so chooses, destroys them.

6. PACKAGING, CONTAINERS AND SHELVES

- 6.1. The Supplier may charge a user fee at cost price for nonreturnable packaging (so-called one-off packaging) and other durable materials insofar as the Customer has accepted this fee prior to delivery. The fee must be stated separately in the invoice. When the packaging and materials are returned to the Supplier by the Customer, the sum of the user fee shall be fully credited without discounts or additional costs. Payment of this [credit] invoice shall explicitly not be made through FloraHolland, unless the Parties have agreed on this in writing, where any additional costs arising from this shall be borne by the Supplier.
- 6.2. The Supplier may collect reusable (similar) packaging (so-called recyclable packaging) from the Customer’s location at its own expense within 15 working days or - if the next delivery takes place on or around this period - by mutual agreement at the time of the next delivery, unless agreed otherwise.

- 6.3. Delivery of the products with the use of (rolling) trolleys and/or reusable shelves is only permitted if the Supplier uses officially approved and intact CC materials. The Supplier may collect the (rolling) trolleys and/or reusable shelves from the Customer's location at its own expense within 15 working days or - if the next delivery takes place on or around this period - by mutual agreement at the time of the next delivery. If the Supplier has not collected the (rolling) trolleys and/or reusable shelves within this period, the Customer shall have the right to forward these goods to the Supplier, where the costs arising from this will be payable by the Supplier.
- 6.4. The Supplier guarantees that these are official CC materials. If it has been agreed that other load carriers and related products will be used, the Supplier shall guarantee that these materials meet the highest common quality standards and all requirements set by the government.
- 6.5. The Supplier is not permitted to pack the products any sooner than strictly necessary, which in any case should not be understood to mean more than 24 hours prior to delivery, such in connection with the loss of the (internal) product quality, unless otherwise agreed in writing.
- 6.6. If deliveries deviate from agreed specifications and/or are not delivered on time, the Supplier shall be in default without any notice of default being required, and the Customer will be entitled:
- to terminate the Agreement in writing pursuant to Section 6:265 of the Dutch Civil Code, without prejudice to the Customer's right to claim full compensation; or
 - to accept the delivery as such at the Supplier's sole discretion, whereby the Supplier shall grant the Customer a reduction of the purchase Price in proportion to the said differences in the products delivered by the Supplier.
- 6.7. In the event that the Supplier knows or should reasonably assume that the Agreement(s) cannot be fulfilled, cannot be fulfilled in time or cannot be fulfilled in full (for example due to cultivation problems or in the event of force majeure), the Supplier shall be obliged to immediately notify the Customer thereof in writing.

7. PAYMENT

- 7.1. Payment shall not be made until after the Customer has received the products and a specified invoice to that effect. The Customer shall pay the amounts due within 45 days of the invoice date, unless the products are delivered after the invoice date. In the latter case, the Customer shall pay the amounts due within 45 days of the date of delivery.
The method of payment must be stated in the invoice.
- 7.2. Payment shall explicitly not be made through FloraHolland, unless the Parties have agreed on this in writing, where any additional costs arising from this shall be borne by the Supplier.
- 7.3. The Customer has the right to set off any outstanding invoices against any claim whatsoever on the Supplier, including discounts, offsets and counterclaims in any case.
- 7.4. The Customer is entitled to suspend the fulfilment of its payment obligations, if it has lodged a complaint with the Supplier concerning the delivered products or if the Supplier is obliged to pay damages.

8. FORCE MAJEURE

- 8.1. Force majeure means any circumstance outside the direct sphere of influence of the Parties as a result of which fulfilment of the Agreement can no longer reasonably be required.
- 8.2. If one of the Parties is unable to fulfil its obligations due to force majeure, it shall notify the other Party in writing of these circumstances as soon as possible.
- 8.3. In the event of force majeure, the Parties shall agree to amend the Agreement or to dissolve the Agreement in whole or in part by mutual consent.

9. UNFORSEEN CIRCUMSTANCES

- 9.1. In the event of unforeseen circumstances on the part of either Party which are so severe that the other Party cannot, according to standards of reasonableness and fairness, expect that the Agreement concluded shall remain in force unchanged, the one Party shall notify the other Party in writing of the unforeseen circumstances and the Parties shall consult with each other on amending the Agreement or dissolving the Agreement in whole or in part.

10. GUARANTEES AND COMPLAINTS

- 10.1. The Supplier guarantees that the quality of the products at the time of delivery to the Customer is in accordance with Customer expectations, as well as in accordance with the agreed specifications, the applicable national and European regulations, the applicable guidelines and instructions of competent government agencies, inspection services and other relevant agencies issuing generally applicable or generally accepted guidelines and instructions concerning phytosanitary matters, quality, quality classification, tolerances in respect of colour, size, etc. with regard to the Parties, including but not limited to inspection services (Naktuinbouw (Netherlands Inspection Service for Horticulture), BKD (Netherlands Flower Bulbs Inspection Service)).
- 10.2. The Supplier guarantees that all products it will deliver are from the latest harvest.
- 10.3. The Supplier guarantees that all the products shall be delivered in the agreed packaging, which is suitable for transporting the products properly and guarantees their quality.
- 10.4. The Supplier guarantees that it is aware of, and that it has all certifications required (MPS), and that it is aware of the applicable rules concerning plant passports.
- 10.5. Complaints regarding visible defects, including complaints on the quantity, size and/or weight of the delivered products, can be filed with the Supplier in writing up to five (5) working days (excluding public holidays) after delivery.
- 10.6. Complaints concerning non-visible defects are acceptable if they are filed with the Supplier in writing within three (3) working days (excluding public holidays) of discovery.
- 10.7. The Supplier is obliged to handle complaints without delay. If the Customer's complaint is justified and acknowledged, the Supplier shall take back and/or destroy the delivered products immediately on request and still proceed to deliver the correct products or credit the purchase Price in full. The Customer retains the right to claim damages for all (consequential) losses suffered and to be suffered by the Customer.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1. The Supplier guarantees that its delivery of products to the Customer, and the Customer's subsequent delivery of those products to third parties, shall not infringe any plant breeders' rights or other third-party intellectual property rights. If this guarantee is breached, the Supplier shall fully indemnify the Customer and bear the ensuing costs and damage(s) that the Customer must pay to the third party in question.

12. DISCLOSURE OBLIGATION

- 12.1. The Supplier shall provide the following information to the Customer:
- details of the Supplier;
 - specification of the products;
 - information relating to any agreed classification; and
 - other information which may be relevant for the tradability of the products, including any quality certifications required.
- 12.2. The Supplier shall ensure that all documents provided to the Customer state the Supplier's details, specifications of the products, purchase order number, and other relevant information concerning the items.
- 12.3. Insofar as necessary, the Supplier shall ensure that the products to be delivered are digitally registered with the chain register prior to delivery.
- 12.4. The Supplier shall confirm to the Customer in writing that the products have been produced in accordance with the specifications within eight (8) weeks before the agreed delivery date at the latest.
- 12.5. If and as soon as the Supplier can reasonably foresee that it will not fulfil its obligations correctly, for example if the agreed quantity cannot be delivered and/or the class or dimensions have changed and/or the agreed delivery date will not be met, the Supplier shall immediately notify the Customer in writing. This notification shall not discharge the Supplier from its obligation to pay compensation.
- 12.6. The Supplier shall provide the Customer with a production sample within eight (8) weeks prior to the agreed delivery date at the latest.
- 12.7. The Supplier shall inform the Customer in writing of the intended date of shipment and of the expected time of arrival at the agreed (air) port, within two (2) working days after it has become known to it.
- 12.8. The Supplier shall provide the Customer with a copy of the Bill of Lading by e-mail, stating the volume, the number of packages and the expected time of arrival at the agreed (air) port and at the Customer's location, within two (2) days after shipment.

13. TRANSFER OF OWNERSHIP, RETENTION OF TITLE AND SURETYSHIP

- 13.1. The ownership of the products shall pass to the Customer at the time of the delivery pursuant to the provisions of these Conditions. Nevertheless, the Customer shall be free to dispose of the delivered goods prior to payment in a way that is in accordance with the normal conduct of its business.
- 13.2. The Supplier guarantees that it shall not resell the products purchased by the Customer under the Agreement, or transfer them to a third party, or pledge or otherwise encumber them, or grant any other rights to these products to third parties.
- 13.3. If the Customer has serious doubt about the Supplier's ability to fulfil its delivery obligations, the Customer shall have the right to postpone payment until the Supplier has furnished security for the delivery.
If the Supplier has failed to furnish security for the delivery within seven (7) working days after the order was placed, the Customer shall be entitled to dissolve the Agreement. In such case, the Supplier shall be liable for the costs incurred by the Customer.

14. TERMINATION OF THE AGREEMENT

- 14.1. If the Supplier fails to fulfil one or more of its obligations, does not fulfil them on time or properly, is declared bankrupt, applies for a suspension of payment, proceeds to liquidate its business, or if all or part of its assets are seized, the Customer shall be entitled, without prior notice and at its own discretion, to postpone the execution under the Agreement or to dissolve the Agreement in whole or in part by means of a written statement without loss of any right to compensation for costs, damage and interest.
- 14.2. The Supplier shall notify the Customer if the case referred to in Article 1 occurs or is likely to occur with or against the Supplier.
- 14.3. If a delivery period is exceeded, as described in Article 5 of these Conditions, the Customer shall have the right to suspend or terminate the Agreement and to claim damages.

15. DISPUTE SETTLEMENT

- 15.1. These Conditions and the Agreement are governed by Dutch law.
- 15.2. Disputes arising from or related to these Conditions and/or the Agreement or any rights and agreements arising from them will only be submitted to the competent court in The Hague.
- 15.3. The United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) shall not apply to these Conditions and/or the Agreement or any rights and agreements arising from them, unless otherwise agreed in writing.

16. FINAL PROVISION

- 16.1. If and insofar as any part or any provision in these Conditions should prove to conflict with any mandatory provision of national or international law, it will be deemed not to have been agreed and the remaining provisions of these Conditions will continue to be binding for the Parties. The Parties shall subsequently agree on a new provision which satisfies the intention of both Parties to the greatest possible extent.
- 16.2. In the event of a conflict between the Dutch version of these Conditions and the English one (translation), the Dutch version will prevail.