

VAN LINT PLANTS GENERAL SALE AND DELIVERY TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1. Unless a contrary indication appears, capitalised terms have the following meanings:
- "Seller"**: Van Lint Plants, a limited liability company (besloten vennootschap), incorporated under the laws of the Netherlands, having its registered seat in Boskoop, the Netherlands, having its place of business in (2771 AB) Boskoop, the Netherlands, at the Insteeek 4, registered with the trade register of the Dutch Chamber of Commerce under number 29043694;
 - "Buyer"**: the party entering into an Agreement with the Seller;
 - "Parties"**: Van Lint Plants and Buyer, each referred to as a **"Party"**;
 - "Agreement"**: the specific purchase and supply agreement, whether in writing or concluded otherwise, between the Seller and the Buyer concerning the sale of plants and/or flowers and all ancillary items and/or services from the Seller to the Buyer, including all appendices and/or amendments and/or additions thereto;
 - "Conditions"**: these general sale and delivery terms and conditions.
- 1.2. Any reference to 'in writing', 'written' or similar term, shall include communication by e-mail, unless specifically stipulated otherwise.

2. APPLICABILITY

- 2.1. These Conditions apply to all offers, sales and deliveries made by the Seller and all Agreements concluded by the Seller with respect thereto.
- 2.2. Any terms and/or conditions stipulated by the Buyer, of any type and by any name, are excluded, unless expressly agreed otherwise in writing.
- 2.3. Divergent and/or additional provisions must be agreed expressly and in writing.
- 2.4. The Seller is entitled to unilaterally amend or supplement these Conditions. The Seller will notify the Buyer of the amended or supplemented conditions and will publish the amended version on its website. The changes come into effect one month after the notification of the amended or supplemented conditions and shall apply to all existing and future Agreements. The Buyer will be given the opportunity to take note of the amended or supplemented conditions and to accept them. If the Buyer does not accept the amended or supplemented conditions, it must inform the Seller in writing within 14 days. In that case, Parties are entitled to terminate the Agreement.

3. OFFERS, ORDERS AND AGREEMENTS

- 3.1. All offers made by the Seller, including but not limited to the offers in product catalogues, on Seller's website, in the ordering lists and/or specific quotes, are non-binding unless otherwise agreed in writing. An offer will remain valid for a maximum of 7 days.
- 3.2. Any order made by the Buyer is binding on the Buyer. The Buyer is not entitled to cancel any order as soon as the Seller has received said order, regardless of any performance under the order. If the Buyer cancels any order anyway, for whatever reason, it is still obliged to pay the price of the order to the Seller.
- 3.3. The Agreement is deemed to have been concluded by written confirmation of the order by the Seller. In the absence of such confirmation, the Agreement is deemed to have been concluded with the actual performance by the Seller.
- 3.4. If an Agreement is concluded by the intervention of agents and/or other intermediaries and/or retailers, this will only bind the Seller once this has been accepted by the Seller in writing.
- 3.5. If the Buyer cancels the Agreement, it will immediately owe 25% of the gross sale value of the to be delivered products as a cancellation charge, notwithstanding any other claims or remedies Seller may have under Dutch law, the Agreement and/or the Conditions.
- 3.6. In the event that the products in question prove to be unsaleable or saleable only at a lower price as a result of said cancellation, the Buyer will be liable for any price differences and any loss or other damage incurred by the Seller.
- 3.7. Both Parties are obliged to limit the possible damage due to the cancellation as much as possible.

4. PRICES AND WEIGHTS

- 4.1. Unless otherwise indicated, prices are in euros (€).
- 4.2. Prices are exclusive of VAT and additional expenses, such as: transport charges, packaging costs, cost of quality control and/or phytosanitary inspection, import duties, government and other official levies, as well as fees under breeders' rights or licenses and any other fees, unless otherwise agreed in writing. If no price is agreed on, the Seller's price in effect at the time of delivery will apply.
- 4.3. The Seller is entitled to adjust the price, in accordance with the requirements of reasonableness and fairness, to a level to be determined by the Seller, if its expenses have increased significantly since the price was set.
- 4.4. Each quoted weight of an amount to be delivered by Seller is a weight on a net basis unless mentioned otherwise.

5. CONDITIONS OF SALE

- 5.1. If the delivery of a variety that has been ordered is not possible for any reason, the Seller is entitled to deliver another variety, or to cancel the order. The Seller shall, in consultation with the Buyer, make an effort to deliver a variety that is equivalent as much as possible. This replacement delivery shall take place under the same conditions as originally agreed. If the Buyer does not accept another variety, the Buyer has the right to cancel the order of this variety. If the order of the undeliverable variety is part of a larger Agreement, then the cancellation referred to above only pertains to the undeliverable variety and the other parts of the Agreement remain in effect. If delivery of another variety has been agreed, the Buyer does not have the right to receive compensation for any loss or damage or to terminate the Agreement.

6. DELIVERY (PERIOD) AND TRANSPORT

- 6.1. Delivery is ex works (EXW), as described in the Incoterms 2010, unless otherwise agreed. The transport, in the broadest sense of the word, also if Seller is responsible for the transport, is entirely at the expense and risk of the Buyer.

- 6.2. After consultation with the Buyer, the Seller will determine the delivery date. Delivery dates indicated by the Seller are not considered deadlines. If a delivery date is agreed on, the Seller will endeavour to maintain that date for delivery in as far as possible. If the Seller cannot deliver on the agreed date or within the agreed period, due to certain circumstances occurred after the Agreement and/or late delivery by third parties, the Seller will inform the Buyer about this in the timeliest manner possible. Parties will determine a new delivery date in consultation. This new delivery date will then immediately constitute the agreed delivery date. If no specific delivery date has been determined between Parties, delivery will take place within a reasonable period after the date of order.
- 6.3. If the Buyer receives the ordered products before the agreed delivery date or period as indicated in article 6.2, any resulting risk is entirely for the Buyer as from the date of actual delivery
- 6.4. If the Buyer receives or wishes to receive the ordered products after the agreed delivery date, the risk of any loss of quality resulting from longer storage will be entirely for the Buyer.
- 6.5. Any extra costs due to taking earlier or later delivery of the products as referred to in article 6.3 and 6.4 will be charged to the Buyer.
- 6.6. If after a certain storage period that may be considered reasonable in view of the type of product, the Buyer has not taken up (afnemen) received the product and the risk of loss of quality and/or spoilage of the products leaves no other option, the order will be deemed to have been cancelled by the Buyer. In that case, the Buyer is obliged to pay the damage incurred by the Seller as a result.

7. PACKAGING, CONTAINERS AND SHELVES

- 7.1. Single-use packaging, such as cardboard boxes, can be charged and will not be taken back.
- 7.2. All packaging, except single-use packaging, remains the property of the Seller.
- 7.3. The Seller is entitled to charge the Buyer an agreed user fee for reusable packaging and other durable material, which fee shall be specified separately on the invoice.
- 7.4. If (rolling) containers and/or reusable shelves have been delivered with the products, the Buyer is obliged to return these to Seller. The Buyer may not keep these for its own use or allow third parties to make use of them.
- 7.5. Seller will collect the (rolling) containers and/or reusable shelves at the time the following delivery occurs. If no subsequent delivery has been planned, the Buyer must return identical (rolling) containers and/or reusable shelves with the same manner of registration (such as a chip or a label) within one week, unless agreed otherwise.
- 7.6. The (rolling) containers or reusable shelves will be stored at Buyer's premises free of charge. In the event of damage or loss of the reusable packaging, (rolling) containers, shelves, etc., the Buyer is obliged to repay the cleaning, repair and/or replacement costs to the Seller and also (re)pay any other costs, loss or damage (such as) extra rent as a result of late return.

8. PAYMENT

- 8.1. The Seller is entitled to request an advance of 50% on the invoice amount from the Buyer.
- 8.2. Payment must occur within 14 days after the invoice date, unless otherwise agreed.
- 8.3. Payment by the Buyer shall be made in full, without any reduction, set-off or counter-claim.
- 8.4. The Buyer is not entitled to suspend the fulfilment of its payment obligation in the event of a complaint submitted by him to the Seller regarding the products delivered or in case Seller is obliged to pay damage compensation, unless the Seller expressly agrees with the suspension in exchange for a guarantee.
- 8.5. All payments will be made in cash at the offices of the Seller, by deposit, on account or transferred into a bank account to be indicated by the Seller.
- 8.6. Payment must be made in euros (€), unless otherwise indicated on the invoice. In the last-mentioned case, the Seller is entitled to charge exchange rate differences to the Buyer.
- 8.7. If the Buyer does not fulfil its payment obligation, mentioned in article 8.2, in due time, it will be deemed to be in default by operation of law. The Seller will then be entitled to charge interest at 6 % monthly as from the date that the Buyer is in default of fulfilling the payment obligation indicated in article 8.2, with a partial month being counted as a whole month. In the event of the Buyer's default, the Seller shall also be entitled to charge the exchange rate loss suffered as a result of that.
- 8.8. If the Buyer is in default or otherwise falls short in fulfilling any of its obligations, all reasonable costs for the Seller to obtain satisfaction, both legal and extra-legal, will be at the Buyer's expense.
- 8.9. The Seller reserves the right to not carry out, or no longer carry out, orders or Agreements if previous deliveries have not been paid for by the Buyer or the Buyer has not fulfilled or is at risk of not fulfilling its obligations to the Seller. The Buyer is required to pay the damage suffered by the Seller due to this. The Seller is not responsible for any damage to the Buyer as a result of not carrying out orders.
- 8.10. The Buyer located in a different EU Member State than the Netherlands will inform the Seller in writing of its correct VAT identification number. Furthermore, the Buyer shall provide all necessary information and documents that the Seller requires as proof that the products have been delivered in a different EU Member State than the Netherlands. The Buyer will indemnify the Seller for all claims resulting from and all negative consequences of the Buyer not or not entirely complying with the provisions in this article. The Seller reserves the right to increase the price payable by the Buyer with the VAT rate that would apply to the delivery in question in the event of delivery within the Netherlands.
- 8.11. Upon first request of the Seller, the Buyer is required to provide the Seller with collateral/pledge right as security for the payment of the amounts the Buyer owes the Seller. The collateral must be sufficient to cover the amount that the Buyer owes the Seller or will come to owe the Seller. The Buyer shall provide the collateral being required.

9. FORCE MAJEURE

- 9.1. Force majeure refers to any circumstance outside the direct sphere of influence of the Seller, as a result of which fulfilment of the Agreement can no longer reasonably be expected. This may include, but is not limited to, strikes, fire, extreme weather conditions or government measures and diseases and plagues on the one hand or faults in the materials supplied to the Seller on the other hand.
- 9.2. If the Seller cannot fulfil its obligations because of force majeure, the Seller must inform the Buyer of the circumstances in writing as soon as possible.
- 9.3. In the event of force majeure, the Parties will agree a change to the Agreement or a complete or partial dissolution of the Agreement.

10. UNFORESEEN CIRCUMSTANCES

- 10.1. In the event of unforeseen circumstances on the part of one of the Parties that are so serious that, in view of the requirements of reasonableness and fairness, the other Party may not expect that the concluded Agreement will remain in effect unchanged, the one Party will inform the other Party about the unforeseen circumstances in writing and the Parties will consult about a change of the Agreement or about the complete or partial dissolution of the Agreement.
- 10.2. If the Parties cannot agree on a change or dissolution within 10 days after the written notice of the circumstances in question, either of the Parties may apply to the court deemed competent by virtue of article 15.

11. GUARANTEES AND COMPLAINTS

- 11.1. The Seller guarantees that the products that are to be delivered on the basis of the order will comply with the requirements set out in the applicable regulations of Dutch testing authorities (Kwaliteits Controle Bureau (KCB)) in effect at the time of concluding the Agreement.
- 11.2. The Seller does not guarantee the trueness to variety of the products.
- 11.3. The Seller does not guarantee the growth and blossoming of the products delivered.
- 11.4. The Buyer will at all times be provided with all requested cultivation information to the best of the Seller's knowledge and abilities, by or on behalf of the Seller, but without any liability on behalf of the Seller.
- 11.5. Complaints regarding visible defects, including those regarding the quantity, size or weight of the products delivered, must be indicated to the Seller in writing within one day.
- 11.6. Complaints regarding non-visible defects must be indicated to the Seller in writing immediately after detection (within two days at the latest).
- 11.7. Complaints must also be indicated to the Seller at such a time that the Seller can check the product.
- 11.8. A complaint must at least include:
- A detailed and accurate description of the defect;
 - The storage location of the product to which the complaint refers;
 - A specification of facts on the basis of which it can be determined that the products delivered by the Seller and those rejected by the Buyer are the same.
- 11.9. Complaints regarding a portion of the products delivered cannot give rise to rejection by the Buyer of the entire delivery.
- 11.10. The Buyer is obliged to check the delivered quantity of the shipment delivered, or have this checked, on receipt and to report a deviation of the quantity to the Seller in accordance with article 11.6.
- 11.11. In accordance with article 8.4, expressing a complaint does not suspend the Buyer's obligation to pay, regardless of any justification of a complaint. If a claim is correct and (to be) recognised, Seller will deliver satisfactorily as yet. No right of substitution and/or right to claim (additional) damages will arise once Buyer's claim is manifestly unjustified.

12. LIABILITY

- 12.1. The Seller accepts no liability whatsoever, unless in one of the cases specified in this article. In such a case, the liability of the Seller under or pursuant to an Agreement will be limited to no more than the amount of the relevant invoice(s). In no event whatsoever, shall the Seller be liable for any form of consequential damage, loss of turnover or loss of profit.
- 12.2. The Seller is not liable for any loss or damage due to force majeure as indicated in article 9.1.
- 12.3. All liability regarding non-timely delivery by the Seller is hereby excluded, unless the agreed delivery date referred to in article 6.2 is exceeded by more than seven days. If the delivery date is exceeded by more than seven days, the Seller must be given written notice of default, whereby the Buyer must set a reasonable period for the Seller to fulfil its obligations as yet.
- 12.4. Compensation in the event of a complaint can only take place if the complaint, submitted in accordance with article 11, proves to be justified and provided that there is culpability (opzet) or conscious negligence (grove schuld) on the part of the Seller. Moreover, the compensation shall be limited to the part of the delivered goods to which the complaint pertains.
- 12.5. In the event of a partial failure of the cultivation at the Buyer as a result of the delivered products, then, if the Seller is required to pay compensation for loss or damage by virtue of article 12.4, the compensation of damages payable by the Seller shall not exceed the percentage of the invoice value that equals the portion of the cultivation that failed at the Buyer. If, when the damage is reported, the Seller and the Buyer jointly determine or a third party determines the percentage of deviating, diseased or weak plants, this percentage will determine the Seller's maximum liability.
- 12.6. In accordance with article 8.3, the Buyer may not deduct damage compensation from any outstanding amounts payable to the Seller and damage compensation does not entitle the Buyer not to pay the invoice amount or not to pay this timely.
- 12.7. Both Parties are obliged to ensure that any damage is limited as much as possible.
- 12.8. Each possible claim regarding compensation for loss of damage pursuant to these Conditions expires, if and as soon as one year has passed since the delivery of the products in question when the claim has not been submitted to the Seller in writing.

13. TRANSFER OF OWNERSHIP, RETENTION OF OWNERSHIP AND SURETY

- 13.1. Except for the terms set out in article 13.2, ownership of the products is transferred to the Buyer at the time of delivery under article 6 of these Conditions.
- 13.2. All delivered and to be delivered products, and the products arising therefrom, irrespective in which stage of the cultivation process, remain in the sole ownership of the Seller, until all claims that the Seller has or acquires vis-à-vis the Buyer, including in any case the claims specified in Book 3, Section 92, Subsection 2 of the Dutch Civil Code, have been paid in full.
- 13.3. As long as the ownership of the products has not been transferred to the Buyer, the Buyer may not sell, transfer or pledge or otherwise encumber the products or grant any other right to these products to third parties, except within the context of its normal business operations.
- 13.4. The Buyer is obliged to store and maintain the products that have been delivered subject to retention of title with the necessary care and in such a manner that the products remain in good shape and can be separately identified by the Seller.
- 13.5. The Seller is entitled to repossess the products delivered subject to retention of title if the Buyer is in default with regard to the fulfilment of its payment obligations or is experiencing payment difficulties or threatens to experience payment difficulties. The Buyer shall grant the Seller free access to its premises and/or buildings for the inspection of the products and/ or in order to exercise the Seller's rights.
- 13.6. If there is any doubt in the mind of the Seller regarding the ability of the Buyer to pay, the Seller will be entitled to defer performances until the Buyer has provided surety for the payment. If the Buyer has not provided surety for the payment within 7 days after being ordered to do so, the Seller is entitled to terminate the Agreement by cancellation. In this case, the Buyer will be liable for the expenses incurred by the Seller.

14. TERMINATION OF THE AGREEMENT

- 14.1. If the Buyer does not fulfil one or more of its obligations, or does not fulfil them in due time or adequately, is declared bankrupt, requests (temporary) moratorium, or proceeds with the liquidation of its business, or if its assets are attached in whole or in part, Seller is entitled to suspend the implementation of the Agreement or to rescind the Agreement in whole or in part, at its option, by a written statement without the need for a prior notification of default, and with full reservation of any claim to which it is entitled for cost, loss or damage and interest.
- 14.2. The Buyer shall notify the Seller of any of the events mentioned in article 14.1 occurring or being threatened against the Buyer.
- 14.3. Exceeding any delivery period, as described in article 6 of these Conditions, with a maximum of two weeks, does not entitle the Buyer to suspend or terminate the Agreement and neither to claim any damages.

15. DISPUTE SETTLEMENT

- 15.1. These Conditions and an Agreement shall exclusively be governed by and construed in accordance with the laws of the Netherlands.
- 15.2. Any dispute arising out of or in connection with these Conditions and/or an Agreement shall be submitted to the competent court in The Hague, the Netherlands, having exclusive jurisdiction.
- 15.3. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to these Conditions and/or an Agreement, unless explicitly agreed otherwise in writing.

16. FINAL CLAUSE

- 16.1. If and inasmuch as any part or provision of these Conditions proves to be in conflict with any compulsory provision of national or international law, it will be deemed not agreed on and these Conditions will otherwise bind the Parties. The Parties will then confer to agree a new provision corresponding as much as possible to what the Parties intended.
- 16.2. In the case of any contradiction between the Dutch version of these Conditions and the English (translated) version thereof, the Dutch version shall prevail.