



General Terms and Conditions of Sale and Delivery (HORTICOOP B.V.)

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1. General Terms and Conditions

1.1) With due observance of article 1.2 of these General Terms and Conditions, these General Terms and Conditions (hereinafter: "GT&C") apply to all agreements, quotations and offers of whatever name, including advice – received or engaged in at no consideration or otherwise – entered into and/or carried out by Horticoop B.V. (hereinafter: "Horticoop"). These GT&C apply also in the event that, for the performance of its obligations under the agreement, Horticoop engages third parties.

1.2) Unless the parties make a written agreement to the contrary, exclusively the AVAG General Terms and Conditions of Sale 2006 as deposited with the Chamber of Commerce in The Hague apply to any agreements between Horticoop and the contracting party concerning the design, delivery, installation and/or maintenance of technical installations or the execution of technical projects.

1.3) The additional terms and conditions as included in these GT&C apply to any agreements between Horticoop and the contracting party concerning the sale, delivery, advice or otherwise concerning substrate and/or potting soil.

2. Force majeure

In the event that Horticoop, on account of circumstances beyond its control and/or for which it cannot be blamed, is unable to perform in good time or properly, this will be designated force majeure on Horticoop's part. In that case, Horticoop is not liable for the damage caused as a result of the non-performance or untimely or improper performance of the agreement.

3. Delivery, obligation to investigate, period to file complaints

3.1) At the time of the actual delivery of any item or product by Horticoop, the ownership and risk thereof is transferred to the contracting party with due observance of the provision in article 5.2 GT&C.

3.2) As to delivery, the following applies:

3.2.1) Upon delivery, the contracting party must check whether the delivery meets the requirements under the agreement in the shortest possible term. Where an agreement as described in article 1.3 GT&C is concerned, the check must have been carried out within 24 hours from the moment of delivery.

3.2.2) The contracting party loses the right to claim that any item or service has failed to meet the requirements under the agreement if it fails to notify Horticoop of this in writing within seven (7) days of discovering this or from the moment it should have discovered this.

3.2.3) Where it concerns an agreement as described in article 1.3 GT&C, the contracting party loses the right to claim that any item has failed to meet the requirements under the agreement after a term of seven (7) days from the moment of delivery.

3.2.4) With due observance of article 4 GT&C, the contracting party at any rate loses the right to claim that any item or service has failed to meet the requirements under the agreement after a term of one (1) year from the moment of delivery/performance of the items or services agreed.

3.2.5) Unless the parties have agreed differently in writing, Horticoop is entitled to carry out the performance it has agreed to perform in parts.

3.2.6) Unless the parties have agreed differently in writing, a margin of deviation of 10 % in relation to dimensions, weights, numbers, colours etc. as stated will not constitute a shortcoming on the part of Horticoop. Samples shown or provided are merely indicative.

3.2.7) In the event that, in response to a complaint, claim or otherwise, Horticoop is compelled to engage an expert to verify the facts, the contracting party will bear the cost of this expert if said complaint, claim or otherwise turns out to have been unfounded.

3.3) To the extent that delivery concerns the performance of an agreement as described in article 1.2 GT&C and the AVAG General Terms and Conditions 2006 do not apply to that delivery, the following applies in addition:

3.3.1) Delivery will be deemed to have taken place once the item that was ordered has been fully installed and completed, ready for operation, and a test has shown that it meets the requirements to be made thereof or, if no test has taken place, after it has been taken into use.

3.3.2) Use will be deemed to have been made of the item in question at any rate eight (8) days from the moment the item ordered was fully installed and completed, ready for operation.

3.3.3) The contracting party holds Horticoop harmless against the risk of damage caused by a storm, water, a fire, theft etc. from the moment deliveries are being made on site.

3.4) In the event of an international purchase agreement, Horticoop and the contracting party in divergence from article 3.1 GT&C may agree that delivery and risk are passed on in accordance with the terms and conditions of INCOTERMS 2010.

4. Guarantee

4.1) Horticoop only has guarantee obligations where these were explicitly agreed in writing at the time the agreement was concluded and a clear guarantee period was determined.

The guarantee obligations comprise the following:

4.1.1) During the guarantee period agreed, Horticoop guarantees the reliability of the item supplied. If it should turn out that the item supplied was not reliable, the contracting party should send it back to Horticoop carriage paid, after which

Horticoop can either choose to repair the item, to replace it or to credit the contracting party pro rata to the sum on the invoice.

4.1.2) Where the performance agreed ensues from an agreement as described in art 1.2 GT&C and the AVAG General Terms and Conditions 2006 do not apply to this agreement, Horticoop guarantees the reliability of the construction supplied and the materials used for the duration of the guarantee period agreed. If the construction supplied or the materials used turn out to be not reliable, Horticoop will repair or replace them. Any parts to be replaced or repaired by Horticoop must be sent to it carriage paid. Assembly and disassembly of such parts and any travel- or accommodation expenses come for the contracting party's account.

4.2) In regard to those parts for which the contracting party and Horticoop have explicitly agreed as such in writing, the guarantee provided by Horticoop's supplier will apply. In such an event, that guarantee will take the place of the guarantee obligations abovementioned.

4.3) The contracting party can make a claim against the guarantee only after it has met all its obligations vis-à-vis Horticoop.

4.4) No guarantee is offered for defects resulting from normal wear and tear, improper use, maintenance not carried out or carried out incorrectly, or where installation, assembly, changes or repairs were carried out by the client or by third parties.

5. Payment

5.1) Payment of the price to Horticoop should be made prior to the due date, without invocation of the right of setoff.

5.2) All items supplied by Horticoop remain Horticoop's property until such a time as the contracting party has fully met its payment obligations vis-à-vis Horticoop pursuant to any agreement entered into with Horticoop for the supply of items and/or services, including claims in relation to any shortcoming in the performance of the said agreement.

5.3) If payment is not made before the due date agreed, the contracting party will be in default under law, entitling Horticoop without further notice of default to charge the statutory interest as from the due date, increased with 3%, to a minimum of 0.8% a month, as well as all extralegal costs entailed in its collection of its claim, the latter costs being deemed to amount to 10% of the sum collected, with a minimum of € 500.00.

5.4) Horticoop reserves the right to setoff at all times.

6. Liability

6.1) Horticoop is liable only for direct damage incurred by the contracting party and directly resulting from an attributable shortcoming or unlawful act due to intent or gross negligence on the part of Horticoop or one of its managerial staff.

6.2) Horticoop is never liable for damage to crops or the growth of crops or for trading losses, including, for example, damage through standstill or lost profits.

6.3) At all times, Horticoop's liability is restricted to the invoice amount for the service or the products that has given cause to the damage, to a maximum of EUR 100,000.00 per event or per series of events with the same cause.

6.4) Any legal claim for damages pursuant to liability of Horticoop in regard to defects in goods supplied or services rendered will expire after one year has passed from the moment of delivery.

6.5) Without prejudice to the above, in the event of an agreement as described in article 1.3 GT&C the following applies. Horticoop will make an effort to supply growth media that, in particular where it concerns organic growth media and the composite parts thereof, are free of microorganisms that may induce disease in humans or plants. The growth media are not sterile but bacteriologically active. Microorganisms may be indigenous and may colonise the growth media during storage or crop growth, depending on the season and the growth circumstances. The greater majority of all growth media contains high percentages of organic materials that are automatically exposed to bacteriological decomposition by fungi, bacteria, actinomycetes and other organisms. Saprophytic nematodes may occur in small numbers in growth media. Adding nutrients and lime may promote the growth of saprophytic nematodes. Horticoop does not accept any liability for damage, caused in any way by omnipresent colonisation of microorganisms or an omnipresent presence of saprophytic organisms, by the growth of fungi on or in the growth medium.

7. Rescission

7.1) If the contracting party is in attributable default of performing its obligations vis-à-vis Horticoop, Horticoop has the authority to partly or completely rescind the agreement.

7.2) Horticoop also has the authority to rescind the agreement if the contracting party applies for a moratorium or bankruptcy, is declared bankrupt, ceases its business or ceases to exist as a legal entity as a result of a merger, dissolution or otherwise, or turns into a different legal entity.

8. Purchase conditions

Purchase conditions of the contracting parties are not accepted by Horticoop and do not apply as such.

9. Dutch law, competent court

The legal relationship with Horticoop is subject to Dutch law. Any and all disputes that arise from or in relation to the said legal relationship will be subjected exclusively to the jurisdiction of the court of The Hague, the Netherlands. The parties may explicitly agree to exclude the applicability of the Vienna Sales Convention.

These General Terms and Conditions have been deposited with the Chamber of Commerce at The Hague under no 09117293, version EN dated October 2014. Earlier terms and conditions that were deposited lapse as a result of this, except where they concern agreements of which the terms and conditions deposited earlier are already part and in which the current General Terms and Conditions cannot be incorporated.

