

GENERAL TERMS AND CONDITIONS OF SALE MOOLENAAR B.V.

1. Definitions.

The following definitions are used in these general terms and conditions:

Agreement: any agreement between the Parties regarding the sale, purchase and delivery of the Products.

Company: a legal entity or company registered with the Chamber of Commerce's trade register and participating in trade as such.

Conditions: these general terms and conditions.

Consumer: a natural person, not being a Company.

Customer: the contractual counterparty of Moolenaar, being a Company or Consumer.

Force majeure situation: has the meaning given to it in article 11.2 of these Conditions.

Moolenaar: the private company with limited liability Moolenaar B.V., having its registered office in the municipality of Teylingen and its principal place of business at Loosterweg 33, 2215 TM Voorhout, registered in the trade register of the Chamber of Commerce under number 28102551, being the user of these Conditions.

Offer: any offer by Moolenaar to enter into an Agreement.

Party(ies): Moolenaar and the Customer, separately or jointly.

Products: bulbs and seeds.

Written: by letter, fax or e-mail, or by message transmitted by any other common means of communication that can be received electronically or In writing provided that the identity of the sender can be established with adequate certainty.

2. Applicability.

- 2.1. These Conditions apply to each Offer and all Agreements, including all resulting and subsequent agreements.
- 2.2. These Conditions apply primarily to the sale and supply of Products by Moolenaar to or on behalf of Customers.

- 2.3. If these Conditions are (declared) applicable to an Offer or an Agreement concluded between the Parties, they shall automatically apply, without the need to be separately agreed thereafter between the relevant Parties, to any Offer that follows or any Agreement concluded thereafter.
- 2.4. The applicability to any Agreement of general or specific terms used by the Customer is expressly rejected by Moolenaar, unless and only after such terms have been expressly declared In Writing by Moolenaar to apply to an Offer or Agreement. Contrary to the provisions of article 2.3 of these Conditions, acceptance in this manner of the applicability of Customer's terms and conditions to an Offer or Agreement shall in no case imply that these terms and conditions are tacitly applicable to any subsequent Offer or Agreement concluded by the relevant Parties.
- 2.5. In the event of (i) nullity (*nietigheid*) or (ii) voidability (*vernietigbaarheid*) by the Customer of one or more provisions of these Conditions, the other provisions of these Conditions shall remain applicable to the Offer and the Agreement. Moolenaar will then replace the void or annulled provision of these Conditions with a provision that is valid or non-annullable and that matches the purpose and meaning of the void or annulled provision as closely as possible.
- 2.6. No provision of these Conditions shall be construed to the detriment of Moolenaar by the mere fact that it was responsible for drafting the relevant provision.
- 2.7. Deviations or amendments to these Conditions shall only be legally valid if they have been expressly agreed In Writing between Moolenaar and the Customer.
- 2.8. If and to the extent that translations of these Conditions have been issued, the Dutch language version shall prevail over the version(s) in any other language.

3. Offers and formation of Agreements.

- 3.1. Any Offer made by Moolenaar is without obligation unless otherwise indicated. Moolenaar is therefore entitled to withdraw the Offer immediately after its acceptance by the Customer. In addition, each Offer is made subject to the condition that the crop of Products is sufficient.
- 3.2. If an Offer is not non-binding, then it is valid for the duration of 30 calendar days per the moment the Offer is made.
- 3.3. An Agreement is established by the Customer's acceptance of an Offer.
- 3.4. Obvious mistakes, slips or errors in the presentation of the Products on Moolenaar's website or otherwise are not binding.
- 3.5. Complete or partial failure of the cultivation or crop of Products or partial spoilage during storage for whatever reason shall relieve Moolenaar of its obligation to deliver and of its further obligations, unless this is due to intent (*opzet*) or gross negligence (*bewuste roekeloosheid*) on its part. Moolenaar will then, in consultation with the Customer, replace varieties and/or sizes with the best possible substitute of the Product concerned.
- 3.6. Oral promises made by Moolenaar's employees or made on its behalf by parties affiliated to it (such as but not limited to agents), are only legally valid after being confirmed In Writing by Moolenaar.

4. Prices.

- 4.1. All quotations made by Moolenaar are without obligation.
- 4.2. When the Agreement is concluded, the rates as stated in the Offer shall apply.
- 4.3. Prices are exclusive of sales tax and other government levies.
- 4.4. Moolenaar's prices are based on the prices for raw materials, materials, wages, taxes, duties, levies, charges, freights as well as all other cost-determining factors at home and abroad applicable during the Offer or the conclusion of the Agreement.

4.5. If after the Offer or the conclusion of the Agreement, but before delivery of the Products, one or more of the cost-determining factors referred to in article 4.4 changes, Moolenaar reserves the right to adjust the agreed prices accordingly.

4.6. All prices are in euros. The Customer shall pay Moolenaar in euros, unless otherwise agreed.

5. Payment.

- 5.1. Unless the Parties agree otherwise In Writing, payment for Products purchased by the Customer must be made within 30 calendar days from the invoice date.
- 5.2. The date of payment is the date on which Moolenaar receives the payment. In the case of payment by bank, the value date of crediting the Customer's bank account shall apply as the date of payment.
- 5.3. If the payment term is exceeded, Moolenaar is entitled to charge statutory commercial interest (*wettelijke handelsrente*) from the day after the last day of the payment term in the case of a Business and statutory interest (*wettelijke rente*) in the case of a Consumer. In addition, all judicial and extrajudicial costs of collection shall be borne by the Customer.
- 5.4. If an Agreement is performed in parts, Moolenaar is entitled to demand payment for the partial deliveries before making the remaining partial deliveries.
- 5.5. Upon or after entering into the Agreement, Moolenaar is entitled to require security from the Customer, before (further) performance, that it will fulfil its payment obligations under the Agreement. Refusal by the Customer to provide the requested security shall entitle Moolenaar to suspend its obligations under the Agreement or to dissolve (*ontbinden*) the Agreement in whole or in part without notice of default (*ingebrekestelling*) or judicial intervention (*gerechtelijke tussenkomst*), without prejudice to its right to compensation for damage suffered by it.

6. Delivery.

- 6.1. Delivery takes place Ex Works, in accordance with the latest version of the Incoterms.
- 6.2. On the other hand, if Moolenaar takes care of the transport or distribution of the Products, the agreed delivery period will be observed as much as possible. In doing so, Moolenaar will have a best-efforts obligation (*inspanningsverplichting*) to deliver the Products within that period. However, this period can never be regarded as a deadline.
- 6.3. The agreed delivery period commences as soon as the Agreement is concluded.
- 6.4. Moolenaar shall not be in default with regard to the delivery period until after it has been declared in default In Writing by the Customer and the latter has given Moolenaar the opportunity to still deliver within a reasonable period and Moolenaar has failed to do so.

7. Cancellation.

- 7.1. If the Customer cancels all or part of its order, as a result of whatever cause, the Customer shall be obliged to indemnify Moolenaar for all costs incurred by it up to that time in relation to that cancellation, in the widest sense of the word.

8. Retention of title.

- 8.1. Ownership of the Products supplied by Moolenaar shall not pass to the Customer until full payment of all amounts invoiced by Moolenaar with any interest, penalty and costs as well as all claims for failure to fulfil the Customer's obligations under the Agreement(s) has been made.
- 8.2. Moolenaar shall be entitled to take back the Products sold immediately at the Customer's expense if the Customer defaults or fails to meet its payment obligation in any way. In that case, the Customer shall be obliged to grant Moolenaar or third parties engaged by Moolenaar access to its premises and buildings.

8.3. The Customer must store the Products subject to a retention of title separately from other Products not belonging to Moolenaar so that the Products can be easily identified and distinguished.

8.4. As long as the Products delivered are subject to retention of title, the Customer may not sell (*verkopen*), encumber (*bezwaren*), pledge (*verpanden*) or otherwise bring them under the control of third parties, unless Moolenaar has given its consent In Writing.

9. Transition risk.

- 9.1. Any risks in respect of the Products shall pass to the Customer at the time the Products are delivered to the Customer.

10. Liability.

- 10.1. The delivery of the Products is made at the risk of the Customer, who must take out adequate insurance against possible damages of any kind.
- 10.2. Except for statutory liability under mandatory provisions and except in cases of intent (*opzet*) or gross negligence (*bewuste roekeloosheid*), only direct damage is eligible for compensation and only that direct damage for which Moolenaar is insured, or should reasonably have been insured given the nature of Moolenaar's business and the sector in which it operates and only up to the amount paid out by the insurer in such cases. Any other form of damage is excluded, including any indirect damage (*indirecte schade*), consequential damage (*gevolgschade*) or damage due to loss of profit (*gederfde winst*).
- 10.3. In the event of an attributable failure to perform the Agreement on the part of Moolenaar, its liability shall always be limited to a maximum of the amount equal to the net invoice value of the Products delivered or that part of the net invoice value in relation to which the Customer's claim for compensation is directly or indirectly related.

- 10.4. The Customer indemnifies Moolenaar against claims by third parties for compensation for damages for which Moolenaar is not liable under these Conditions.
- 10.5. If latent infections are present in the delivered Products, this will be regarded as a non-attributable shortcoming on the part of Moolenaar unless the Customer proves (i) that there was intent (*opzet*) or gross negligence (*bewuste roekeloosheid*) on the part of Moolenaar which caused these latent infections or (ii) that Moolenaar was aware of these latent infections prior to purchase but nevertheless did not inform the Customer about them. The amount of Moolenaar's liability will never exceed the net invoice value.
- 10.6. Moolenaar is not liable for:
- an inadequate crop, insufficient stock;
 - the flowering result of the Products supplied;
 - Customer's acts or omissions in violation of usage advice, instructions, or these Conditions provided by Moolenaar or third parties;
 - improper use of the Products;
 - Customers who are not adequately insured and the damage caused is therefore not covered by an insurance company; or
 - a Force Majeure situation as referred to in article 11.2.
- 10.7. If the quality of the Products does not comply with the Agreement and the Customer, being a Consumer, does not notify Moolenaar of this In Writing within a reasonable time, after the Customer, being a Consumer, has discovered or should have discovered this shortcoming, no claim for performance, repair or compensation can be made.
- 10.8. In the event of a limitation of liability provided for in this article 10 would go beyond what is permitted by law, it will

automatically be reduced to the limitation permitted at most.

11. Force majeure.

- 11.1. Moolenaar may, in addition to the provisions of article 10 not be held liable for performance, repair or compensation where a failure is the result of force majeure.
- 11.2. Force majeure as referred to in article 11.1 includes in any case any failure by Moolenaar to perform its obligations under the Agreement due to :
- disruptions to the (production) process at a supplier, including utilities;
 - failure of third parties to supply necessary materials and products;
 - (work)strikes;
 - fire;
 - extreme weather conditions;
 - government measures (both national and international), including import and export bans and import and export barriers;
 - crop failure;
 - viruses or infections in relation to the Products;
 - war, mobilisation, insurgency;
 - sabotage;
 - transport disruptions; and/or
 - transport delay,
- each situation individually a **Force Majeure situation**.

12. Complaint (*reclamering*)

- 12.1. The Customer is obliged to examine the Products upon delivery for visible and/or directly observable defects. As such are considered all defects that can be detected by normal sensory perception or a simple random check. By not complying with this obligation to inspect, the Customer loses all possible claims against Moolenaar.
- 12.2. If the delivered Product differs in number, quantity and weight by less than 5% from what was agreed, the Customer shall

nevertheless be obliged to accept the delivered Product.

- 12.3. Complaints concerning quality and quantity of the delivered Products must be submitted In writing to Moolenaar by the Customer within 8 calendar days after delivery. Defects that can only be discovered at a later stage (non-visible defects) must be notified to Moolenaar In Writing by the Customer immediately after their discovery. Once these periods have been exceeded, the Customer is deemed to have approved the delivered Products and complaints will no longer be considered by Moolenaar.
- 12.4. The complaint must contain a description of the defect and Moolenaar must be given the opportunity to investigate the complaint upon first request. The Customer must allow Moolenaar to have an inspection of the Products concerned carried out by an expert or an independent body. If the complaint is declared well-founded by the expert, the costs of the inspection are for Moolenaar. If the complaint is declared unfounded, the costs shall be borne by the Customer.
- 12.5. If the Customer has made a timely complaint to Moolenaar and the latter has acknowledged the complaint, Moolenaar shall, at its discretion, only be obliged to deliver what is missing, replace the delivered Products or refund a proportionate part of the purchase price.

13. Implementation by third parties.

- 13.1. Moolenaar is always entitled to have its commitments performed by its chosen third parties, such as (suppliers).

14. Contract assumption.

- 14.1. Moolenaar has the right to transfer any Agreement between it and the Customer to a third party belonging to the group (as referred to in Article 2:24b of the Civil Code) of Moolenaar, without requiring the prior consent of the Customer.

15. Change the Conditions.

- 15.1. Moolenaar may unilaterally amend these Conditions In Writing. These amendments will take effect at the moment the amended Conditions have been published on Moolenaar's website or deposited with the trade register of the Chamber of Commerce. The amended Conditions will apply to any subsequent Offer made and Agreement entered into.

16. Dissolution, suspension and set-off.

- 16.1. In case the Customer does not, does not timely or does not properly fulfil the obligations arising for him from the Agreement, or if there is a well-founded fear for this, Moolenaar has the right, without notice of default and without judicial intervention, to suspend (*opschorten*) the Agreement for a reasonable period or to dissolve (*ontbinden*) the Agreement without any obligation to pay damages.
- 16.2. Moolenaar's claim in respect of the part of the Agreement already performed, as well as the damage arising from the suspension or dissolution, as referred to in section 6:96 of the Dutch Civil Code, shall be immediately due and payable.
- 16.3. If the Agreement is validly terminated in part or suspended in part, the remaining part of the Agreement remains in full force and effect.
- 16.4. The Customer is not entitled to suspend its obligations under the Agreement or to set-off (*verrekening*) as referred to in section 6:127 et seq. of the Dutch Civil Code.

17. Intellectual property rights.

- 17.1. Moolenaar reserves all its intellectual property rights in relation to Products it supplies.

18. Pledge receivables.

18.1. Moolenaar is entitled to pledge its receivables from Customers to a third party such as a factoring company.

19. Miscellaneous.

19.1. In the event of a consumer purchase within the meaning of Book 7 of the Civil Code (an Agreement concluded by a Consumer), the mandatory provisions contained therein shall prevail to the extent they differ from the provisions in these Conditions.

19.2. A Company cannot invoke Title 1 of Book 7 of the Civil Code.

20. Applicable law and competent court.

20.1. These Conditions and any (non-)contractual obligation arising therefrom or related thereto shall be governed exclusively by Dutch law.

20.2. All disputes arising from these Conditions shall in the first instance be submitted exclusively to the competent court of the District Court of The Hague, location Leiden.