

Terms & Conditions of Botanic-Art BV

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1. APPLICABILITY

- a) These terms and conditions apply to all the tenders from Botanic-Art BV, hereinafter to be called the vendor, as well as to all purchase and sales agreements effected between the vendor and his contracting party, hereinafter to be called the purchaser.
- b) Any deviations from these terms and conditions shall only be applicable if expressly agreed between the vendor and the purchaser, and the vendor has confirmed such deviations in writing to the purchaser.
- c) Any of the purchaser's terms and conditions of purchase shall be excluded from these terms and conditions, unless expressly agreed in writing.

2. TENDERS AND ORDERS

- a) All of the vendor's tenders, including the price-lists supplied by the vendor, shall be free of engagement, unless a specific period for acceptance is stated.
- b) The tenders are based on the information supplied at the request for a tender and on the current prices and wages at the time the tender was submitted. The prices mentioned in a tender are exclusive of VAT, shipping costs and import duties.
- c) If the purchaser accepts from the vendor a tender free of engagement, the vendor shall be entitled to revoke the tender within five workdays upon acceptance.
- d) In the case of a compounded quotation, no commitment exists to deliver a part at a proportionate part of the price quoted for the entire offer. e) The vendor only accepts orders set down in writing.
- f) In the case that the purchaser intends to sell the goods to be ordered outside the Netherlands, the purchaser shall, prior to placing the order, be committed with respect to the vendor to verify that and on what conditions the goods to be ordered are allowed for import, transportation and sale in the respective country. The purchaser undertakes to retrieve from the vendor any the information relevant to and required for such verification with regard to the goods to be ordered.
- g) By placing an order, the purchaser indicates to the vendor to have fulfilled the requirement of verification referred to in 2.f, and the purchaser shall be committed with respect to the vendor to only import, transport and sell the ordered goods on the relevant conditions laid down in the respective country.
- h) At the vendor's first request, the purchaser will have to demonstrate that he fulfils the conditions for import, transportation and sale of the ordered goods in the respective country correctly and in full. i) At the time of the order, the purchaser must expressly notify the vendor of any requirements, deviating from the regular requirements, that the purchaser wishes to make upon the goods to be supplied or the dispatch thereof
- j) The purchaser cannot commit the vendor to take back any goods supplied, in the event the goods should not/no longer meet the requirements for import, transportation and sale in the respective country.

3. DELIVERY

- a) The delivery date stated or agreed by the vendor is an approximate target date and can therefore not be considered a deadline, unless expressly otherwise agreed in writing. Should the stated delivery date be exceeded, the vendor shall not be in default until the purchaser has held the vendor in default through a registered letter.
- b) As long as the vendor is not in default with respect to the purchaser, the vendor shall not be bound to pay any compensation for damage caused to the customer, which may ensue from the fact that the stated delivery date has been exceeded.
- c) From the moment of delivery, the ordered goods shall be at the purchaser's risk.
- d) At the purchaser's request, the vendor will arrange the dispatch of the ordered goods, which, however, does not constitute an obligation for the vendor. Goods are dispatched for the account and at the risk of the purchaser. With respect to the purchaser, the vendor shall not be liable for goods gone lost or missing, or for damage caused to the dispatched goods.
- e) If goods are delivered through borrowed packaging, the purchaser shall be bound to return such borrowed packaging to the vendor at the purchaser's expense, within 30 days upon receipt, empty and undamaged.

4. PRICE (ADJUSTMENTS)

- a) The prices agreed at the conclusion of the agreement are based on the information known at the time of the conclusion and are exclusive of turnover tax.
- b) If, upon conclusion of the agreement, circumstances should arise between the vendor and purchaser with respect to cost-price factors, justifying an adjustment to the agreed price, the vendor shall be entitled to adjust the price accordingly. Save the case that a price adjustment exceeds an increase of more than 10%, the purchaser shall not be entitled to dissolve the agreement if the vendor changes the price.
- c) Cost-price factors certainly include: the prices of equipment, raw materials, packaging, goods to be

purchased from third parties, taxes, levies, freight rates, currency changes, insurance premiums, while the vendor shall be entitled to charge additional costs on top of the prices if government measures have been proclaimed resulting in non-regular commercial risks.

5. SAMPLES, MODELS AND EXAMPLES

The provision by the vendor of a model, sample or example shall only be considered to have been demonstrated or supplied for indicatory purposes: the qualities of the goods to be delivered may deviate from the sample, model or example, unless it has been expressly stated that delivery was to take place in accordance with the demonstrated or supplied sample, model or example.

6. GUARANTEE AND REQUIREMENTS

- a) The vendor shall provide no guarantee whatsoever for the delivered goods and bear no responsibility with regard to the application of the goods delivered, not even when these are based on recommendations, advice or information supplied by the vendor or by third parties.
- b) On the conclusion of the purchase agreement, the purchaser must expressly report to the vendor any requirements the purchaser wishes to make upon the goods to be delivered that deviate from the regular requirements.
- c) The purchaser guarantees the vendor that the supplied goods shall be stored, processed or sold in accordance with the statutory and other relevant regulations.

7. MODIFICATIONS TO THE GOODS TO BE DELIVERED

- a) The vendor is authorised to deliver goods deviating from those described in the purchase agreement, while the purchaser is not entitled to dissolve the agreement, if the modifications to the goods to be delivered, the packaging or the respective documentation are required to comply with the legal stipulations or if the modifications to the goods are small adjustments for improvement.

8. FORCE MAJEURE

- a) In the case of force majeure, the vendor is entitled to suspend the implementation of the agreement until the circumstance causing force majeure no longer occurs.
- b) Force majeure means: any unusual cause, as well as circumstance, which within reason should not be at the risk of the vendor. Delays or default by suppliers, general shortage of required materials and other goods required for delivery, transport problems, stagnation in the import of the goods to be delivered, business breakdown, extended absence of illness, work strikes and government measures and control shall expressly apply as force majeure.
- c) If the period of force majeure lasts more than 3 months, as well as in the event it is established that the force majeure situation will be permanent, the vendor and the purchaser may make an arrangement for the dissolution of the agreement as well as the related implications. d) If the vendor has partially complied with his obligations at commencement of the force majeure, or is able to partially comply with his obligations, he will be entitled to separately invoice the goods that have already been delivered or the deliverable part, and the purchaser shall be committed to pay this invoice as if it were respective of a separate agreement, subject to the case when the delivered goods or the deliverable part have/has no value on its own.
- e) The vendor reserves the right to appeal to force majeure, even when the causing circumstance commences after the moment that implementation of the agreement should have been (partially) completed by the vendor.

9. INSPECTION AND CLAIMS

- a) On delivery, and definitely within 3 workdays upon receipt, the purchaser is committed to (cause to) inspect the purchased goods, and verify if the delivered goods comply with the agreement.
- b) The vendor must immediately, through a registered letter or by fax, be notified of any incorrect or incomplete items and/or deficiencies related to the delivered goods, which the purchaser has stated upon receipt.
- c) The vendor must also be notified in writing, through a registered letter or by fax, of any non-visible deficiencies within 8 workdays following the moment they have been stated, and not later than 30 days upon receipt.
- d) Any claims from the purchaser regarding the delivered goods which reach the vendor more than 30 days after receipt, shall no longer be dealt with, and any claims from the purchaser shall have been cancelled.
- e) Timely inspection and claims shall not suspend the purchaser's obligation to purchase and pay the goods delivered or to be delivered. The delivered goods can only be returned with the vendor's prior written consent.

10. RESERVATION OF OWNERSHIP

- a) The goods delivered by the vendor shall be the property of the vendor until the purchaser has complied with all of his obligations stemming from the purchase agreements concluded with the vendor, to the extent that these obligations are (a) consideration(s) with respect to item/items delivered or to be delivered, or items and/or any claims on account of non-compliance by the purchaser with the purchase agreement(s).
- b) Goods delivered by the vendor which, pursuant to the previous section, are included in the reservation of

ownership, can only be resold under the terms of the regular business operations. The purchaser is not entitled to pledge the delivered goods or establish any other right on such goods.

c) If the purchaser does not comply with his obligations, or a well-founded fear exists that he is not going to, the vendor shall be entitled to (cause to) remove the delivered goods to which the reservation of ownership is established, from the purchaser or from third parties who retain the goods for the purchaser. The purchaser shall be committed to fully cooperate at a penalty of 10% of the amount he is due per day.

d) If third parties wish to establish or assert any right to the goods delivered under the reservation of ownership, the purchaser shall be committed to notify the vendor thereof as soon as is reasonably possible.

e) At the vendor's first request, the purchaser is committed to: - insure and maintain insurance of the goods delivered under the reservation of ownership against fire, explosion and water damage and against theft and to supply the insurance policy to the vendor for his inspection;

- pledge to the vendor any claims from the purchaser against insurers with respect to goods delivered under the reservation of ownership, in the manner described in article 3:239 Dutch Civil Code; - to pledge to the vendor the claims the purchaser acquires with respect to his customers in reselling the goods delivered by the vendor under the reservation of ownership in the manner described in article 3:239 BW;

to mark the goods delivered under the reservation of ownership as the ownership of the vendor;

to cooperate in any other way to all reasonable measures the vendor wishes to take for the protection of his reservation of ownership related to the delivered goods, which do not unreasonably impede the purchaser in the normal operation of his business.

11. NOTIFICATION REQUIREMENT

a) The purchaser is bound to immediately and fully notify the vendor of his suspicion or observation that the purchaser and/or third parties are caused damage and/or any detriment or will in the future be caused (further) damage and/or any detriment, or related to, or the method of delivery, caused by the delivered goods.

b) The purchaser is bound, in addition to his own duty to prevent or restrict damage, to fully enable the vendor to prevent imminent damage and/or any detriment or restrict any damage and/or any detriment. c) The purchaser is bound to indemnify the vendor from any claims from (a) third party/ies with regard to damage caused by the delivered goods.

12. LIABILITY

a) With respect to the purchaser, the vendor shall not be liable for damage (either direct or indirect) and/or any detriment stemming from the goods delivered by the vendor, save the case that such damage was caused through the intent or gross negligence of the vendor.

b) The vendor shall in no case be liable for damage in the form of loss of turnover, loss of business and/or other consequential damage.

c) If in compliance with the provisions of the previous sections of this article, it should appear that the caused damage and/or any detriment should be for the account of the vendor, the total liability of the vendor shall be limited, on reasonable and fair criteria, to the amount in proportion to the amount agreed for the goods delivered, and shall not exceed the agreed price.

d) If the vendor should be held liable by a third party for damage and/or any detriment for which he is not liable by virtue of this agreement with the purchaser and/or these terms and conditions, the purchaser will fully indemnify the vendor and compensate anything he is to pay to such third party.

e) The onus of proof with regard to any alleged liability of the vendor shall rest with and be accepted by the purchaser.

13. PAYMENT

a) The purchaser has to settle payments for orders to vendor in advance. In the case that the vendor permits the purchaser to buy on account, the purchaser must settle the invoices he receives from the vendor within 10 days, without any deductions or suspension on account of alleged default, unless otherwise agreed.

b) In the case of the purchaser's default, liquidation, bankruptcy, or moratorium, his (payment) obligations will be payable on demand. In addition, the (payment) obligations of the customer will be payable on demand in the case the vendor becomes aware of circumstances giving him well-founded reasons to believe that the customer shall not (be able to) fulfil his (payment) commitments.

c) Payments must be made in Dutch currency through a bank transfer to a bank account indicated by the vendor. In the case of cash payment, the purchaser must make sure that the vendor issues a receipt. Any costs in relation to the payment (method) by the purchaser shall be for the purchaser's account.

d) If the stated term of payment of 10 days should be exceeded, the purchaser shall be due to pay to the vendor the interest with a minimum of 1% per month on the amount due - while no notice of default shall be required - from the due date up to the day of payment, while the interest on part of the month shall be calculated as a whole month.

e) The purchaser shall also be due non-legal expenses from the due date, which amount to 15% of the principal amount. However, if the vendor is able to show that he has incurred higher expenses, including legal expenses, which were within reason required, then such expenses will have to be paid by the

purchaser as well.

f) With respect to the vendor, the purchaser shall be due the court expenses the vendor has incurred in all instances, provided that these are not unreasonably high, if the vendor and the purchaser are conducting legal proceedings with regard to an agreement to which these general terms and conditions apply, and a court order has become final, in which the court has fully or predominantly ruled against the purchaser.

g) Payments made by the purchaser shall first of all settle any interest and costs due and subsequently the longest outstanding payable invoices, even if the purchaser states that the payment is related to a later invoice.

14. SECURITY

a) The vendor is entitled to require from the purchaser a security at or after the conclusion of the agreement, before (further) performances are carried out, for his compliance with his (current and future) obligations with respect to the vendor within a reasonable period.

b) The purchaser is at any time bound to provide security in the case of his bankruptcy, moratorium, shut-down or liquidation of his business or due to the fact that the purchaser loses the control of his entire or part of his capital through attachment or otherwise.

15. RIGHT OF SUSPENSION

a) In the case the purchaser should not comply with his obligations with respect to the vendor, the vendor shall, without notice of default, be entitled to suspend the implementation of the agreement until the purchaser has complied with his obligations.

b) The vendor's right to suspend the implementation of the agreement shall also accrue to the vendor in the case he becomes aware of circumstances giving well-founded reasons to believe that the purchaser is not going to comply with his obligations with respect to the vendor.

16. TERMINATION OF THE AGREEMENT

a) In the case that the purchaser is failing in his compliance with the agreement, the vendor shall be entitled to accomplish the partial or entire dissolution of the agreement through a written statement for that purpose or through a court order.

b) If the agreement is partially or entirely dissolved, the purchaser shall be committed to compensate the vendor's positive contractual interest. c) With respect to the purchaser, the vendor shall, while legally using his right to accomplish the partial or entire dissolution of the agreement, not be bound to compensate the damage stemming from such dissolution caused to the purchaser.

d) In the case that circumstances occur with regard to the goods to be delivered or the persons and/or material which the vendor uses or usually uses for the implementation of the agreement, which are such that the implementation of the agreement becomes impossible or difficult and/or costly out of proportion to such extent that compliance with the agreement can no longer within reason be required, the vendor shall be authorised to dissolve the agreement.

17. CONFIDENTIALITY

a) Save the obligations made by law upon the purchaser, he shall not be allowed to disclose any confidential information regarding the vendor or the business relationship between the purchaser and the vendor, to third parties.

18. RECOMMENDATION

a) The purchaser is not allowed to recommend the goods in a manner that is not in accordance with the legal regulations, the type of the delivered goods or method of recommendation the vendor usually uses. b) The purchaser is not allowed to provide a guarantee to third parties with regard to the application of the goods delivered, not even if these are based on recommendations, advice or information supplied by the vendor or by third parties.

c) At the sale and promotion of the delivered goods, the purchaser is allowed to use the sales material provided by the vendor. The supplied sales material shall, however, be the vendor's property.

d) The vendor expressly reserves the copyright to the provided sales material. The purchaser is not permitted to make any alterations to the sales material.

e) In the case the purchaser wishes to recommend the delivered goods through sales material produced by himself or by a third party on his instructions, the purchaser shall only be entitled to do so with the vendor's written consent.

19. SETTLEMENT OF DISPUTES

a) As a deviation from the legal rules for the competence of the civil court, any dispute between the purchaser and the vendor, if the Court is competent, shall be settled by the Court in Amsterdam. The vendor shall however be authorised to summon the purchaser before the court that is competent pursuant to the law or the applicable international treaty.

20. APPLICABLE LAW

a) Dutch law applies to any agreement between the vendor and the purchaser.

21. AMENDMENTS TO THE TERMS AND CONDITIONS

a) The vendor shall be authorised to amend these terms and conditions. Such amendments shall be effective from the moment the date of effectiveness has been announced. The vendor shall timely forward the amended terms and conditions to the purchaser. If no date of effectiveness has been announced, the amendments with respect to the purchaser shall take effect from the moment the purchaser has been notified of the amendments.