

TERMS and CONDITIONS

I GENERAL

1. The terms mentioned below apply to any offer made by any floriculture product wholesaler (hereinafter called "the seller") and any agreement and its carrying out made between seller and customer (hereinafter called "the buyer").
2. These terms are used excluding any other terms, including any terms of purchase used by the buyer.
3. Any deviations in terms should be expressly agreed upon in writing and will be considered to add to said terms in so far as they do not supersede any of the stipulations of said terms.

II OFFERS/AGREEMENT

1. All offers shall be free of obligation, unless stated otherwise in writing.
2. An agreement is made at the moment of express acceptance of the order on the part of the seller in a manner which is customary in the trade.
3. Any promises made by salesmen, agents and other intermediaries shall be binding upon the seller only if and when they have been expressly confirmed by the latter.

III PRICES

1. Unless explicitly agreed otherwise, prices shall be based on current prices as brought about by offer and demand.
2. Agreed price limits shall never be deviated from, unless agreed otherwise in writing.
3. Unless stated otherwise prices are:
 - a. ex seller's premises;
 - b. excluding VAT, packing cost, import duties, any other taxes and rates as well as costs of loading and unloading, transport, insurance, quality control and phyto-sanitary examination;
 - c. quoted in English currency: difference of exchange, if any, shall be at the buyer's risk.

IV SUPPLY AND TIME OF DELIVERY

1. The seller shall be obliged to supply the quantity agreed upon, unless on the market make it necessary to reduce the agreed quantity.
2. The seller shall be obliged to inform buyer of this immediately and will then be entitled to supply a smaller quantity.
3. Unless agreed otherwise, the place of delivery shall be the seller's warehouse.
4. Free delivery shall take place only if and so far as agreed upon and stated on the invoice by the seller.
5. Unless agreed otherwise, delivery times are approximate. Although delivery times will be observed as much as possible, the seller shall not be held liable in case of exceeding in so far as this exceeding can be deemed reasonable.
6. If the buyer should not take up any ordered products on the agreed time and place, the seller shall be entitled to sell them. In that case the defaulting buyer shall be obliged to pay any price difference caused by such a sale, as well as any further cost and relevant damage on the side of the seller.

V FORCE MAJEURE

1. If owing to force majeure there can be no delivery, seller must inform buyer of this as quickly as possible by telex or by telegraph/telephone.
2. In case of force majeure seller, after consultation with buyer, can cancel the agreement or put off delivery until the time when force majeure ceases to exist.
3. If in case of putting off delivery is delayed for more than two days, the buyer shall be authorized to let the seller know in writing that he considers the purchase agreement cancelled.
4. By force majeure is meant: any circumstance falling outside the direct sphere of influence of the seller owing to which conclusion of the agreement can no longer be reasonably executed, such as strike, transport problems, fire, extreme weather conditions, government action, extreme sick-leave on the part of the staff, interruptions of work on the part of the seller and his suppliers.

VI QUALITY AND HEALTH

1. Products to be supplied shall conform to current quality specifications.
2. Products to be supplied shall furthermore meet the phyto-sanitary government requirements of importing country. Any relevant defaults shall not give the buyer the right to claim damages or cancellation of the agreement, unless the seller informed the buyer beforehand when the order was given of any specific phyto-sanitary requirements in the importing country.

VII PACKING

1. Packing will be of the type customary in the flower and plant wholesale trade and at the discretion of the seller as a good businessman unless agreed otherwise.
2. Disposable packing will be charged at cost price.
3. The seller is entitled to charge the buyer a deposit for the use of durable packing and other durable materials (cardboard boxes, containers, stacker trolleys, etc.), which is stated on the invoice.
4. Any deposits charged will be settled after free return of the material, on the condition that it is undamaged.

VIII TRANSPORT/SHIPMENT

1. Unless agreed otherwise, the manner of transport/shipment is decided by the seller, in his capacity as a good businessman.
2. Unless agreed otherwise, transportation/shipping is for the buyer's account.

IX COMPLAINTS

1. Complaints on visible defaults of delivered products should be lodged with the seller immediately on finding or in any case within 24 hours after receipt by phone. Where possible, the customer should confirm this telephone complaint by fax or written letter. When claiming a credit note for defective goods, the customer must bring back a sample of the same goods and the invoice on which these goods were charged.
2. In the case of glass/giftware, the goods are sold as seen, the customer must ensure when purchasing these products that they do not contain any visible defects as no liability can be accepted once you have left the premises.
3. The complaints should contain at least:
 - a. a detailed and accurate description of the problem.
 - b. statement of any further facts proving that the products supplied by the seller and rejected by the buyer are identical.
4. Complaints on part of the products supplied can be no reason for rejection of the entire delivery.
5. After expiry of the above terms the buyer is deemed to have approved the products delivered on the invoice. Any further complaints will then no longer be accepted by the seller.

X LIABILITY

Any liability for damage suffered by the buyer shall be limited to the invoice amount of the goods supplied to which the claim for damages refers.

XI PAYMENT

1. Payment shall be made, at the seller's discretion:
 - a. net cash on delivery, or
 - b. by payment or remittance into a bank or giro account stated by the seller, within & days after the date of the invoice, unless agreed otherwise.
2. The buyer cannot plead set-off against the seller.
3. The buyer will be in default simply owing to expiry of the agreed term of payment, without proved default being required.
4. In case of default on the part of the buyer, seller will be entitled to charge the buyer 1 1/2% interest monthly, from the due date of the invoice up to the day of full settlement. Any costs, both judicial and extrajudicial, to be made by the seller in order to force the buyer in default to meet his obligations shall be charged to the buyer.

XII RESERVATION OF PROPERTY

1. Any products supplied shall remain the exclusive property of the seller until full payment for them has been made.

XIII DISPUTES/APPLICABLE LAW

1. Any disputes, including those which are brought up by one of the parties:
 - a. shall be governed by the judgment of the competent Court of the district where the buyer has established his business, in so far as permitted by legal regulations and/or
 - b. shall be submitted, by common agreement of the parties, to a board of arbitration, whose judgment shall be accepted as binding by both parties.
2. Any cases outside the scope of the underlying terms shall also be governed by English law, unless agreed otherwise in case of export.