

Terms and Conditions

General Terms and Conditions of Sale and Delivery of De Bolster B.V.

General Terms and Conditions of Sale and Delivery of De Bolster B.V. applicable to all offers and agreements based on the recommended General Terms and Conditions of Sale and Delivery for the Seed Trade and Planting Materials Sector as drawn up by the Vegetable Seeds Department of Plantum NL, Vossenburchkade 68, 2805 PC Gouda, the Netherlands.

Article 1: Applicability

These terms and conditions are applicable to each offer and agreement between De Bolster B.V. (hereafter called the seller) and the buyer insofar as parties did not expressly deviate from one or more clauses of these terms and conditions.

Article 2: Offers and agreements

1. Offers made by the seller are non-binding. A non-binding offer can be revoked up to three working days from receipt of its acceptance. Prices quoted in an offer are exclusive of sales taxes. Prices are given in euro.
2. The seller reserves the right to adjust its prices periodically. Any new price quotation supersedes the former quotation as regards orders placed after the date of the new quotation.
3. If in an order the required quantity differs from seller`s standard packing unit or its multiple, the seller will be free to supply the next higher quantity.
4. All orders less than euro 20,00 attract an administration charge of euro 4,00.
5. All given weights and numbers are net weights and numbers.

Article 3: Order documentation

When placing its order, or at the seller`s first request, the buyer must specify in writing what information, specifications and documents are required pursuant to the regulations of the country in which the delivery is made, such as those relating to:

- invoicing
- phytosanitary requirements
- international certificates and
- other import documents or import statements.

Article 4: Good crop and processing reservation

All deliveries are subject to the usual crop and processing reservation. In the event that the seller makes a justified appeal to the crop and processing reservation, the seller is not obliged to deliver but will endeavour to deliver pro-rata quantities or comparable alternatives. In case the seller makes an appeal to this reservation, the buyer is not entitled to any compensation whatsoever.

Article 5: Supply

1. The Incoterms that are valid at the moment parties enter into an agreement will be applicable. Delivery will take place on an ex works basis.
2. If transportation is to be left to the seller, it will be executed in such a manner as deemed best by the seller. Any extra costs incurred by the seller as a result of special demands made by the buyer concerning transportation will be charged to the buyer.
3. Contrary to paragraph 1 of this article, deliveries to growers/plant raisers within the Netherlands are carriage paid to destination.
4. The buyer is not allowed to return products to the seller, unless the seller gives permission thereto. The costs of possible return shipments shall be at the buyer`s account.

Article 6: Delivery time

The seller is bound to deliver at a reasonable time in conformity to the sowing or planting season after the agreement has been concluded. An agreed delivery time, however, is not an expiration date. In the event that a delivery is overdue, the buyer shall put the seller in default accordingly in writing and allow him a reasonable period of time to fulfil the agreement after all.

Article 7: Partial deliveries

The seller is allowed to effect partial deliveries of the products. This will not be applicable, however, if a partial delivery has no independent value. In the event of partial deliveries, the seller is entitled to invoice each delivery separately.

Article 8: Retention of title

1. The products delivered by the seller remain the property of the seller until the buyer has paid for them in full. The retention of title is also extended to claims the seller might obtain against the buyer on account of the buyer's failure to meet one or more of its obligations towards the seller.
2. The products delivered by the seller to which the retention of title pursuant to paragraph 1 of this article applies, may only be used or sold for normal operational purposes. In the event of resale the buyer is obliged to reserve title to its buyers.
3. The buyer is not permitted to pledge the products or to allow any other claim on them.

Article 9: Terms of Payment

1. Payment is due within 14 days from invoice date. In exceeding this term the buyer is in default; the buyer owes interest to the seller on the overdue amount at the rate of 1% per month as of the moment the default commences.
2. In the event of liquidation, bankruptcy of or suspension of payment by the buyer, the payments due by the buyer fall due immediately and the seller is authorised to suspend or cancel the agreement with the buyer, without prejudice to the seller's right to seek compensation.
3. If partial payments were agreed upon and the buyer fails in one term, the full remaining amount will fall due immediately and without further notice. The last sentence of paragraph 1 of this article will be applicable accordingly.
4. The bank transfer costs shall be at the buyer's account.

Article 10: Debt collection charges

If the buyer defaults on one or more of its obligations, then all costs of debt collection, out of court or in court, shall be for the buyer's account.

Article 11: Liability

1. In the event that, in the seller's opinion, a complaint by the buyer is justified, the seller shall, to the extent possible and at its sole discretion and costs, either make good the damage or replace the products with non-defective products. The buyer shall in that event give its full co-operation to the seller.
2. The seller shall not be liable for damage suffered by the buyer caused by or otherwise related to defective products, including their packaging, unless such damage is the result of intentional misconduct or gross negligence on the part of the seller and/or its employees.
3. If the seller is liable for any damage incurred by the buyer, the seller's liability shall never exceed the amount of the invoice (excluding VAT) regarding the delivery concerned, as charged to the buyer. The seller shall in any event not be liable for any indirect damage suffered by the buyer such as (but not limited to) consequential damage or loss of profit.
4. The seller shall furthermore in any event not be liable for damage caused by an alleged delay in the delivery of the products.
5. Any potential claim for compensation based on these general terms and conditions shall expire if and as soon as a year has passed since the delivery of the products concerned, while no claim has been issued to the seller in writing.

Article 12: Use and warranty

1. The seller guarantees that the products to be delivered by the seller conform to the best of its ability to the specifications concerning those products. No guarantees apply to the product specifications: in case the products delivered do not comply with the product specifications as mentioned in the seller's catalogue regarding the current selling season, the seller will inform the buyer about this.
2. The seller does not guarantee that the products delivered by the seller to the buyer comply with the purpose to which they are put by the buyer. The buyer explicitly acknowledges that, even with the highest quality products, success in growing depends largely upon cultivation methods, weather and soil conditions.
3. Any and all guarantees on the part of the seller lapse if the buyer carries out processes on the products or causes processes to be carried out on them, repackages the products or causes them

to be repackaged, or uses and/or stores the products incorrectly or causes them to be used/or stored incorrectly.

Article 13: Defects, complaints terms

1. The buyer shall examine the products on, or as soon as possible after, delivery and shall inform the seller within 8 days after delivery in case not the correct products have been delivered and/or not the agreed quantity has been delivered.
2. Complaints concerning apparent defects to the products, including their packaging, must be reported to the seller in writing within eight days after the date of delivery of the products to the buyer; complaints concerning non-apparent or hidden defects to the products, including their packaging, must be reported to the seller in writing within eight days of the date on which the alleged defect concerned was or could reasonably have been discovered by the buyer. Complaints have to be set out in such a manner that the seller or a third party can verify them and they have to be filed stating the batch, delivery and invoice details. In the event that any complaint of the buyer is not reported to the seller in writing within the above stated applicable period, the buyer shall no longer be entitled to any form of recovery, including damages.
3. In case of a permanent dispute between the parties about germination, varietal purity, trueness to type, genetical or technical purity, an assessment may be performed at the request of either party by the Naktuinbouw (ISTA station), which has its registered office in Roelofarendsveen, the Netherlands, for the account of the unsuccessful party. The outcome of the assessment by the Naktuinbouw will be binding for both parties, notwithstanding the right of parties concerned to submit to the authorities referred to in article 20 any disputes about the consequences of this outcome.

Article 14: Indemnification

1. The buyer indemnifies the seller against all claims and rights from third parties for compensation for damage (allegedly) caused by, or otherwise associated with, goods supplied by the seller, including claims and rights which have been submitted against the seller in its capacity as producer of the products on the basis of any regulations relating to product liability in whatever country, except if said damage is due to intentional misconduct or gross negligence on the part of the seller.
2. The buyer shall take out adequate insurance against all possible claims and liabilities emanating from the indemnity given in article 14.1; at first request of the seller the insurance shall be submitted to the seller for its approval.

Article 15: Advices for cultural practices, variety descriptions, recommendations

1. Cultural advices from the seller are without engagement. Descriptions and recommendations in whatever form are based as precisely as possible on experiences in trials and in practice. However, the seller cannot accept in any case liability on the basis of such information for deviating results in the grown product. The buyer itself will be deemed to determine whether the products are suitable to be used for the intended cultivations and under the local conditions.
2. As used in the information supplied by the seller, immunity, resistance, susceptibility and tolerance shall mean the following:
 - Immunity: Not subject to attack by a specified pest or pathogen.
 - Resistance: Ability of a cultivar to limit the development of a given pest or pathogen throughout the whole or a part of a growing cycle. Several resistance levels may generally be defined.
 - Susceptibility: Corresponds to a zero resistance level of a cultivar with respect to a given pest or pathogen.
 - Tolerance: Ability of a cultivar to tolerate the development of a pest or pathogen whilst displaying disorders that are without serious consequences for its growth, appearance and yield.

Article 16: Force majeure

1. Force majeure is deemed to mean circumstances beyond the seller`s control hampering the fulfilment of the agreement. This will include, if and insofar as such circumstances unreasonably hamper or block the fulfilment: strikes in other companies than that of the seller, wild strikes or

- political strikes in the seller`s company, general shortages of required raw material and other materials or services necessary for the fulfilment of the agreement, unforeseeable stagnation at suppliers and/or other third parties that the seller depends upon, and general transport problems.
2. In the event of force majeure conditions occurring, the seller will inform the buyer as soon as possible.
 3. In case a force majeure condition exists for longer than two months, both parties will be entitled to terminate the agreement. In such a case, the seller will not be obliged to provide any indemnification.

Article 17: Further use/cultivation

1. The buyer is not allowed to use the goods delivered for further propagation and/or reproduction of propagation material.
2. If the goods delivered are sold on to a third party, the buyer must impose this stipulation on penalty of damages to that third party.

Article 18: Usage of trademarks, logos and other signs

1. The buyer may not use trademarks, logos and other signs used by the seller to distinguish its products from those of other enterprises, and it may not use trademarks, logos or other signs resembling them. This does not apply to the trading of the products in their original packaging material which the seller has, or has had, provided with trademarks, logos or other signs.
2. If the goods delivered are sold on to a third party, the buyer must impose this stipulation on penalty of damages to that third party.

Article 19: Conversion

1. If a provision of these general terms and conditions is invalid, that provision will automatically be replaced by a valid provision that corresponds as closely as possible to the purport of the invalid provision.
2. In that case the other provisions of the general terms and conditions will remain fully valid insofar as possible.

Article 20: Settlement of disputes

In the event of any disputes emanating from this agreement or being connected therewith, the parties will resolve such disputes in a friendly way. Should this not be possible the dispute will be settled by the at first instance competent civil court at the domicile of the seller, unless the applicable law according to article 21 provides for another court of law. The seller remains within its rights, however, to issue a summons against the buyer to appear in the court authorised by the law or applicable international treaty.

Article 21: Applicable law

All agreements between the seller and the buyer are subject to the law of the country of domicile of the seller. Besides, the "United Nations Convention on the International Sales of Goods" will be applicable if the seller and the buyer are not domiciled in the same country, in as far as this Convention does not deviate from these terms and conditions and in as far as this Convention is not inconsistent with the compulsory law of the country of the seller.

Article 22: ISF Rules and Usages

All agreements with and/or offers for sale addressed to buyers domiciled outside the Netherlands are subject to the International Seed Federation (ISF) Rules and Usages for the Trade in Seeds for Sowing Purposes (ISF Rules and Usages, latest edition) as far as the provisions of the ISF Rules and Usages do not differ from any of the provisions included in these terms and conditions.