

GENERAL SALES AND DELIVERY TERMS OF CALLA SUPPLY B.V.

Applicability

All quotes and sales by Calla Supply B.V. (hereafter: Calla Supply) are made exclusively on the basis of these sales and delivery terms. Reference to other terms and/or conditions is not accepted with exception of the general sales and delivery terms of Sande Varieties (see www.sandegroup.nl).

By placing an order the buyer accepts the General Sales and Delivery Terms of Calla Supply without qualifications. These terms can only be amended or expanded in writing and with the express permission of Calla Supply and, as such, relate only to the transaction in question, unless the parties have agreed otherwise. The terms that apply on the date of the agreement are always the terms that apply to that agreement.

Insofar as these general terms and conditions are also drawn up in a language other than Dutch, in the event of any conflict the Dutch text shall always prevail.

1. Offers and conclusion of agreement

- 1.1 All offers and prices stated by Calla Supply are free of obligations.
- 1.2 An agreement shall only come into effect once Calla Supply has confirmed the order in writing
- 1.3 Any supplementary arrangements or amendments agreed on at a later stage, as well as any verbal promises made by Calla Supply's personnel or on behalf of Calla Supply by agents or other parties working for Calla Supply, will only be binding for Calla Supply from the moment that the latter confirms them in writing.

2. Prices

- 2.1 All product prices are stated in Euro, exclusive of VAT and are based on ex works, 't Zand, The Netherlands.
- 2.2 If one or more of the cost price factors is subject to change after order confirmation but before delivery of the products, Calla Supply shall be entitled to adjust the agreed prices accordingly.
- 2.3 The costs of transport, packaging and insurance are payable by the buyer. All levies and/or taxes that are owed or become due, either directly or indirectly, on account of the agreement entered into between Calla Supply and the buyer are payable exclusively and entirely by the buyer and may not be deducted from sums owed to Calla Supply.

3. Payment

- 3.1. Unless otherwise agreed in writing, payment for goods sold by Calla Supply that are sent by air must be made within 30 days of the invoice date and, in the case of goods sent as sea freight, within 60 days of the invoice date in the agreed currency.
- 3.2 The value date on which Calla Supply receives payment shall be deemed to constitute the date of payment. Where payment is made by means of a giro or bank transfer, the date on which Calla Supply's giro or bank account is credited, shall be deemed to constitute the date of payment.
- 3.3 The buyer is not entitled to make any deduction, suspension or reduced payment and all calls for settlement are explicitly excluded. In the event of late payment, Calla Supply will be entitled to charge the statutory interest for business transactions as of the due date, and also to charge any legal and extrajudicial costs incurred in collecting the amounts owed; the extrajudicial costs owed will never be less than 15% of the sum to be collected.
- 3.4 In case a delivery is effected in parts, Calla Supply shall be entitled to demand payment for each partial delivery before proceeding with any other.
- 3.5 Upon or after entering into the agreement and before its implementation, Calla Supply will be entitled to demand a guarantee from the buyer that both the payment obligations and any other obligations arising from this agreement will be fulfilled. Refusal by the buyer to provide the required security gives Calla Supply the right to suspend its obligations and ultimately, without any notice of default or legal intervention, the right to dissolve the contract wholly or partially, without prejudice to his right to compensation for any damages suffered by him.

4. Delivery

- 4.1 All deliveries shall be ex works (place), The Netherlands, unless otherwise agreed in writing.
- 4.2 Although the stated time of delivery will always be taken into account as far as possible, this delivery time is approximately indicated and can never be considered a fatal date. Calla Supply shall not be in default in respect of such delivery time until the buyer notifies it in writing that it is in default, in doing so stipulates a reasonable period of time within which Calla Supply has the opportunity to effect delivery, and the latter still fails to do so.
- 4.3 The agreed delivery time shall commence as soon as Calla Supply has confirmed the order in writing.
- 4.4 Calla Supply shall not be liable for any harm due to late delivery if and insofar as this is attributable to circumstances beyond Calla Supply's control and sphere of risk, which is deemed to include late or non-compliance on the part of its suppliers.
- 4.5 The buyer's failure to comply with his duty to effect payment (or to do so on time), shall have the effect of suspending Calla Supply's duty to effect a delivery.

5. Force majeure

- 5.1. In a case of *force majeure* - for example in the event of a crop failure, insufficient quality available, viruses, natural disaster, labour strike, fire, or import and export problems - or in the case of other circumstances that make it impossible to demand Calla Supply's fulfillment or timely fulfillment of the obligations arising from this agreement, Calla Supply will be entitled to make a choice, without the need for legal intervention and without being obliged to pay any form of compensation, between completely or partially cancelling the agreement by means of a single written notice to that effect or the suspension of this agreement until the case of *force majeure* has come to an end.
- 5.2 Where Calla Supply has already executed part of an agreement, the buyer shall pay the purchase price for any products that have been delivered.

6. Complaints

- 6.1 The buyer is obliged to check the products upon delivery for any visible and/or immediately observable defects. This means all defects that can be ascertained by means of ordinary sensory perception or a simple spot check. The buyer is moreover obliged to check whether the delivered products are also in accordance with other particulars of the order. Failure to fulfill the obligation to check the delivery shall mean the forfeiture of any claims the buyer may have vis-à-vis Calla Supply.
- 6.2 If a delivery deviates less than 10% in terms of number, quantity and weight from that which was agreed, the buyer shall be obliged to accept the delivery in spite of such deviation.
- 6.3 Complaints regarding the quality and quantity of the products delivered must be submitted by registered mail or telefax at the latest within seven calendar days after delivery. Defects which can only be observed at a later stage (non visible defects) shall be forthwith reported to Calla Supply after this has been observed. Once these periods have passed, the buyer will be considered to have approved the products supplied and complaints will no longer be considered.
- 6.4 The complaint must contain a description of the flaw and Calla Supply must upon first request be given the opportunity to investigate the complaint. The buyer shall allow Calla Supply to have the concerned products examined by an expert or an independent inspection service. If the complaint turns out to be well-founded, all the costs of any investigation will be for Calla Supply's account. If a complaint is groundless, all the costs will be for the buyer's account.
- 6.5 If the buyer has reported a complaint to Calla Supply in a timely manner and the Calla Supply has acknowledged this complaint, Calla Supply shall only be obliged to deliver that which is missing, replace the delivered products or repay a proportional part of the purchase price, such at Calla Supply's own discretion.
- 6.6 A complaint shall not suspend the buyer's payment obligation, unless Calla Supply agrees expressly with such suspension.
- 6.7 The products can only be returned for the account and risk of the buyer and only after prior written permission has been obtained from Calla Supply.

7. Liability

- 7.1 Calla Supply will never be liable for the results regarding the flowering of the products supplied. It always remains buyer's responsibility to assess if the circumstances, among which climatologically, are fit for the products.
- 7.2 In case of a shortcoming attributable to Calla Supply, Calla Supply's liability is always limited to a maximum of the net invoice value of the products or to that part of the net invoice value to which a claim for compensation is directly or indirectly related.
- 7.3 Except in the case of legal liability pursuant to provisions of mandatory law and a deliberate act or omission, or gross negligence, any liability of Calla Supply for any further damage, among which any direct or indirect damage, consequential damages or lost profits, is excluded.
- 7.4 The buyer shall indemnify Calla Supply against all claims for compensation brought by third parties in respect of which Calla Supply is not liable under these terms and conditions.

8. Cancellation

- 8.1 Calla Supply will be entitled to cancel an order if the buyer has failed to comply with earlier payment obligations with respect to Calla Supply or with respect to other creditors. This right may also be exercised if Calla Supply considers the information concerning the buyer's credit rating to be insufficient. The buyer will never be able to derive any rights from such cancellations or hold Calla Supply liable.
- 8.2 Calla Supply will only be required to accept the buyer's complete or partial cancellation of the agreement, as a result of any cause whatsoever, if the goods have not yet been delivered to the transporter for dispatch and on condition that the customer pays compensation equivalent to at least 25% of the invoice value of the cancelled goods. Calla Supply shall in that case also be entitled to charge all costs incurred up to that time.
- 8.3 The buyer is obliged to accept the products at the time that they are made available to him. If the buyer refuses to accept the goods, Calla Supply will be entitled to sell them elsewhere and the buyer will be liable for the difference in price as well as all the other costs incurred by Calla Supply in connection with this, among which costs of storage.

9. Retention of title

- 9.1 The ownership of the goods supplied by Calla Supply does not pass to the buyer until the sums invoiced, plus any interest, penalty and costs, as well as all claims as a result of the buyer's failure to perform its obligations towards Calla Supply under this agreement or any other, have been paid in full. The provision of a cheque or any other bill of exchange will not count as payment in this regard.
- 9.2 Calla Supply will be entitled to immediately take back the goods supplied if the buyer remains in default in any way whatsoever with regard to the fulfillment of payment obligations. In that case, the buyer will be obliged to allow Calla Supply access to the buyer's land and buildings for this purpose.
- 9.3 The buyer must store the goods subject to a retention of title separately from the other goods, in order to be able to continue distinguishing the goods of Calla Supply.
- 9.4 As long as the delivered goods are subject to a retention of title, the buyer may not sell, encumber or pledge these goods, or otherwise place them under the control of third parties, other than as part of its normal business operations. The buyer shall, however, not be permitted to sell the goods within the context of its normal business operations if it has applied for a suspension of payments or if it has been declared bankrupt.

10. Suspension and dissolution

- 10.1 If the buyer fails to perform, fails to perform in a timely manner, or fails to perform to a sufficient degree any of the obligations arising for it from the concluded agreement, or if a well-founded fear exists of such failure occurring, as well as in the case of an application for a suspension of payments order, bankruptcy or the liquidation of any of the buyer's businesses, as well as in the event of the buyer's death, or dissolution if the buyer is a company, or if there is any change in the type of company or in its management or in the contribution made by the company's activities, Calla Supply will be entitled, without notice of default or legal intervention being required, to suspend its own obligations for a reasonable period or to annul the agreement without being held liable for any compensation.

- 10.2 The claim of Calla Supply with respect to the part of the agreement already performed, as well as damage arising from the suspension or termination, which damage includes lost profit, shall be immediately due and payable.

11. Intellectual property rights

- 11.1 Calla Supply reserves all rights which it has in relation to intellectual property rights in respect of products it has supplied.
- 11.2 With regard to cases in which it is apparent from Calla Supply's catalogue or from the agreement entered into by the parties that a variety is protected by plant breeder's rights - which is indicated by a letter R or P after the name of the variety concerned - the buyer will be bound to fulfill all the obligations the said rights entail. Any failure to comply with this stipulation will result in the buyer being liable for the losses incurred by Calla Supply or any third party.

12. Severance

- 12.1 Should any provision of these general terms and conditions of sale and delivery be non-applicable or in conflict with public order or the law, only the provision in question shall be deemed as not having been written and the rest of the conditions shall remain fully in force.
Calla Supply reserves the right to amend the inadmissible provision in order to make it legally valid.

13. Jurisdiction, forum

- 13.1 Any disputes, even if only considered as such by one of the parties, will be put before the competent court in the district in which Calla Supply is registered, without affecting the right of Calla Supply to have the dispute heard by another competent court.
- 13.2 All offers and agreements concluded between the buyer and Calla Supply shall be exclusively governed by the laws of the Netherlands.