

# CULTIVATE.

## General terms and conditions of Cultivate. v.o.f.

### Article 1: Applicability of these conditions

- 1.1 These general terms and conditions of sale (hereafter: Conditions) are applicable to all offers, (sales) agreements and deliveries of Cultivate v.o.f. (hereafter: Cultivate), to the exclusion of any other general terms and conditions. These Conditions have been registered with the Chamber of Commerce in Eindhoven under number 17177479 and will be sent to you by Cultivate on request. These Conditions can also be viewed on, or downloaded from the internet, see our website: <http://www.cultivate.nl>.
- 1.2 In these Conditions, the other party of Cultivate will be referred to as 'the client'.
- 1.3 The purchase conditions of the client shall not exclude or limit the applicability of these Conditions.
- 1.4 By accepting an offer, placing an order or entering into an agreement, the client also accepts the applicability of these Conditions.
- 1.5 A deviation from the provisions contained in these Conditions can only be made in writing and solely by Cultivate, in which case the other provisions will remain unimpaired.
- 1.6 All rights and claims as stipulated in these Conditions and if applicable in additional agreements for the benefit of Cultivate, are likewise stipulated for the benefit of intermediaries and other third parties used by Cultivate.

### Article 2: Offers and agreements

- 2.1 All offers and quotations made by Cultivate are free of obligation and Cultivate retains the express right to change the prices, in particular when this is required on the basis of (statutory) regulations. See article 3 paragraph 7.
- 2.2 An agreement only comes into effect after written acceptance by Cultivate of the client's order. Cultivate is entitled to refuse orders or attach certain conditions to the delivery, unless explicitly stipulated otherwise. If an order is not accepted, this will be communicated by Cultivate within ten (10) working days of receiving the order.
- 2.3 If the agreed price, discount or delivery time is based on a clear mistake, typing error or printing error, both Cultivate and the client have the right to rectify the error(s) or cancel the order. See article 3 paragraph 7.
- 2.4 The colours, materials, sizes and finish of all information, models and images are only intended as an indication. Minor deviations from this cannot be grounds for rejection, a discount, compensation or annulment of the agreement.

### Article 3: Prices and payments

- 3.1 The prices specified for the offered goods are in euros (€), inclusive of VAT and exclusive of administration and shipment costs and any applicable taxes or other levies, unless specified otherwise or agreed in writing.
- 3.2 All first deliveries in the Netherlands and all deliveries outside of the Netherlands must be paid in advance without discount or compensation, unless otherwise agreed in writing. Deliveries subject to prepayment will qualify for shipment only after the full outstanding amount has been credited to the giro or bank account of Cultivate.
- 3.3 In the case of a subsequent delivery within the Netherlands, payment must be made without discount or compensation within fourteen (14) days of the invoice date, unless otherwise agreed in writing.
- 3.4 Payment can be made in (one of) the way(s) as specified during the ordering process. Additional conditions in respect of payment and/or the order can be specified for an order. In the case of payment by bank or giro, the applicable date of payment is the date of the credit entry in the Cultivate giro or bank account.
- 3.5 If the term of payment is exceeded, the client is in default from the date the payment should have been made and will be obliged to pay interest for overdue payment of one percent (1%) per month or part of a month over the outstanding amount. If payment is made after a demand for payment has been made by Cultivate, the client must pay an amount of twenty five euros (€ 25) for administration costs and if Cultivate has contracted out the payment collection, the client must also pay the collection charges, which will be a minimum of fifteen percent (15%) of the outstanding amount, however this does not prejudice the right of Cultivate to instead collect the actual extrajudicial collection costs.
- 3.6 If the client defaults on any payment, Cultivate is entitled to suspend or cancel the (execution of) the relevant agreement and any other associated agreements.
- 3.7 If the prices of the offered products and services increase during the period between the order and its execution, the client is entitled to cancel the order or dissolve the agreement within five (5) working days of being notified by Cultivate of the price increase.

### Article 4: Delivery and receipt

- 4.1 The delivery times specified by Cultivate are only intended as an indication. Exceedance of a delivery time does not entitle the client to compensation, cancel the order or dissolve the agreement, unless the delivery time has been

- exceeded to the extent that it is no longer reasonable for the client be expected to maintain the agreement. The client is then entitled to cancel the order or dissolve the agreement, if necessary.
- 4.2 Cultivate is entitled to deliver the ordered products in consignments and to invoice the delivered products separately.
- 4.3 The delivery of the products takes place at the location and time at which the products are ready for shipment to the client, irrespective of any agreement between Cultivate and the client regarding the transport and, if applicable, insurance.
- 4.4 The client is obliged to inspect the products on delivery to determine whether they conform to the agreement. If the packaging is missing or damaged, the client must open the packaging in the presence of the conveyor and inspect the goods for damage and the client must document any damage on the delivery note. If damage is identified that is the result of defective packaging, the client can refuse the product and return it to the conveyor. The client must provide written reasoned notification to Cultivate of any (transport) damage or other deficiencies as quickly as possible and certainly within two (2) working days of delivery, or after detection could reasonably be expected.
- 4.5 If the client in cases other than those referred to in the previous paragraph should refuse a delivery, Cultivate can charge the resulting costs to the client. In this case Cultivate is entitled to dissolve the agreement, without prejudice to their right to claim full compensation.

#### **Article 5: Complaints and returns**

- 5.1 A complaint is unfounded if the product has not been used in accordance with the directions for use, the product has been used improperly, has not been used in accordance with its designated use or the defect has occurred as a result of carelessness of the client.
- 5.2 Products that are the subject of a complaint may only be returned by the client to Cultivate after prior written permission from Cultivate or after notification from Cultivate that they wish the goods to be returned. Cultivate is entitled to issue instructions regarding the method of shipment.
- 5.3 If it is established that the product does not comply with the agreement, Cultivate has the choice of replacing the returned products with new products or refunding the invoiced amount.
- 5.4 If the client wishes not to take delivery of a product for whatever reason, the client is entitled to return the product to Cultivate within seven (7) working days of delivery. In this case, return shipments will only be accepted if they are returned undamaged and in the original packaging, whereby the shipping costs must be paid in full by the client. In no case is Cultivate responsible or can be held responsible for loss or damage during the return transport.
- 5.5 If Cultivate repairs or replaces faulty goods after a well-founded complaint, Cultivate is deemed to have delivered in time even if this results in the exceedance of a deadline specified by the client.

#### **Article 6: Retention of title**

Ownership of the delivered products is transferred only after the client has paid all amounts due to Cultivate, in accordance with any agreements. The risks related to the products pass to the client at the moment of delivery (see article 4 paragraph 3).

#### **Article 7: Intellectual and industrial property rights**

The client must respect completely and unconditionally the intellectual and industrial property rights attached to the products supplied by Cultivate.

#### **Article 8: Liability**

- 8.1 Cultivate accepts liability for damage sustained by a third party, to the extent the liability ensues from the Product Liability Act and up to the maxima based on this Act.
- 8.2 Other damage or damage exceeding the provisions in the previous paragraph will not be accepted by Cultivate, unless there is demonstrable intent or gross negligence on the part of Cultivate. If Cultivate is liable in respect of the above, liability for damage as a result of loss of profit and consequential loss is expressly excluded.
- 8.3 The maximum liability of Cultivate is always limited to the amount of the product or products that resulted in the damage, providing this sum does not exceed forty five thousand Euro (€ 45,000) in the case of damage related to personal injury and shall in all events and at all times be limited to a maximum of the amount paid by the insurer to Cultivate for the appropriate instance.
- 8.4 All other damage, including loss of profit and consequential loss, resulting from non-delivery or late delivery is expressly excluded.

#### **Article 9: Force majeure**

- 9.1 Without prejudice to other rights to which they are entitled, in the case of force majeure, Cultivate has the right if they so desire to suspend the execution of the order or dissolve the agreement without judicial intervention, by notifying the client in writing and without Cultivate being liable for any compensation, unless this would be unacceptable according to the standards of reasonableness and fairness under the given circumstances.

- 9.2 Force majeure is understood to mean every shortcoming that cannot be attributed to Cultivate, because no blame is attributable to them and they cannot be held responsible pursuant to the law, legal act or generally accepted practice.
- 9.3 To the extent that Cultivate had already fulfilled, or will still fulfil, part of their commitments ensuing from the agreement at the time of the force majeure, Cultivate is entitled to invoice the part that has been or will be fulfilled. In this case, the client is obliged to pay this invoice as though it were a separate agreement.

#### **Article 10: Communication**

Unless there is demonstrable intent or gross negligence on the part of Cultivate, Cultivate is not liable for mistaken, corrupted, delayed or the improper transferral of orders or notifications as a consequence of the use of internet or any other form of communication between the client and Cultivate, or between Cultivate and third parties, to the extent they are related to the relationship between the client and Cultivate.

#### **Article 11: Order processing**

- 11.1 If the client provides an address in writing to Cultivate, Cultivate is entitled to send all orders to this address unless the client notifies Cultivate in writing of a different address to which the orders must be sent.
- 11.2 If Cultivate should allow a short-term or long-term deviation from these Conditions, whether explicit or implied, this will not prejudice their right to demand immediate and strict compliance with these Conditions. The client can never claim any rights on the basis of the fact that Cultivate has in exceptional cases been flexible in the application of these Conditions.
- 11.3 Cultivate is entitled to use third parties to execute orders.

#### **Article 12: Privacy policy**

- 12.1 Cultivate respects the privacy of the client and recognises the importance of protecting (against misuse) the personal information collected by Cultivate.
- 12.2 The client does not have to provide any personal information to be able to visit our websites.
- 12.3 Personal information is collected at different locations within the Cultivate websites. This is carried out using electronic forms that must be completed by the client when they order a product, subscribe to a newsletter, requests information, participate in a questionnaire or competition, or use another service offered via the websites.
- 12.4 The personal information provided by the client via these types of form will be stored in Cultivate files. These details and files will be used to be able to supply the requested products, services or information to the client. This information will not be provided to third parties unless it is directly related and unavoidable for the delivery of the requested products, services or information, such as to a conveyor.
- 12.5 The client is entitled to view and correct their personal information. To do this, the client must send a signed and dated request to Cultivate, accompanied by a copy of their identification papers.
- 12.6 This privacy policy applies solely to the Cultivate websites and not to any third-party websites to which the Cultivate websites are linked via hyperlinks or other references.
- 12.7 By using our website(s), the client agrees to the conditions specified in this privacy policy.

#### **Article 13: Applicable law and competent judge**

- 13.1 These Conditions and all rights, obligations, offers, orders and agreements to which these Conditions are applicable, are governed exclusively by Dutch law.
- 13.2 All disputes between the parties will be referred exclusively to the competent judge in the Netherlands. The above also applies if all or some of the goods are delivered to a foreign country and/or the client is located or resides in a foreign country, unless other obligatory provisions ensue from Dutch law.
- 13.3 If one or more of the provisions in these Conditions or any other agreement with Cultivate, should be in conflict with any applicable statutory regulations, the applicable provision will become ineffective and Cultivate will replace it by a new comparable provision that is acceptable in law.
- 13.4 The UN Convention on the International Sale of Goods is not applicable.

#### **Article 14: Translation and version**

- 14.1 If these Conditions have been made available in a language other than the Dutch language and a dispute occurs, the Conditions specified in the Dutch language will always prevail.
- 14.2 The latest version is applicable, as was applicable at the time the agreement came into effect.

Eindhoven, version November 2006, Cultivate.