



*General Terms and Conditions of Sale and Delivery of **Rijk Zwaan Export B.V.** applicable to all offers and agreements and based on the recommended General Terms and Conditions of Sale and Delivery for the Seed Trade and Planting Materials Sector as advised by the Vegetable Seeds Department of Plantum NL, Vossenburchkade 68, 2805 PC Gouda, The Netherlands.*

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Article 1 Applicability

1. These terms and conditions are applicable to all offers and agreements between Rijk Zwaan Export B.V., (hereafter called the seller), and the buyer, to which the seller has declared these terms and conditions applicable, unless and insofar as not expressly otherwise agreed in writing.
2. The applicability of any general terms and conditions of the buyer is hereby expressly declined.

Article 2 Offers, agreements, prices

1. Offers made by the seller are non-binding. A non-binding offer can be revoked by the seller up to three working days from receipt of the acceptance by the buyer. Prices quoted in an offer are exclusive of sales taxes. Prices are given in Euro or US dollars, EXW De Lier, Incoterms 2010.
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 the seller's standard packing unit or its multiple, the seller will be free to supply the next higher quantity.
4. All given weights and numbers are net weights and numbers.
5. An offer made to the buyer or a sale agreement between the seller and the buyer does not imply and may not be interpreted by any means as an implied licence to the buyer with regard to any intellectual property on the goods offered or sold.

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 this reservation, the seller is not obliged to deliver but will endeavour to deliver pro-rata quantities or comparable alternatives. In such a case the buyer is not entitled to any compensation whatsoever.

Article 5 Supply

1. The Incoterms 2010 will be applicable. Delivery will take place ex works De Lier, unless otherwise agreed.
2. If transportation is 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. The buyer is not allowed to return goods 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, unless otherwise agreed. An agreed delivery time, however, is not a final term. In the event that a delivery is overdue, the buyer shall inform the seller accordingly in writing and allow him a reasonable period of time to fulfil the agreement.

Article 7 Partial deliveries

The seller is allowed to effect partial deliveries of the goods. 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 goods delivered by the seller and/or the products originating from the delivered goods remain the property of the seller until the buyer has paid for them in full. In case of non-payment the seller is allowed to recall the goods and/or products from the buyer, to which the buyer will give opportunity. The buyer does not have the right to claim any means of compensation. 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 goods delivered by the seller and/or the products originating from the delivered goods to which the retention of title pursuant to paragraph 1 of this article applies:
 - a) shall at all times be stored and/or used in such a way that the goods and/or products can be easily identified as the seller's property, and
 - b) may only be used or sold for normal operational purposes.In the event of resale the buyer shall stipulate a retention of title for the benefit of the seller. The buyer shall furthermore impose on a buying party the obligations as stipulated in this article 8.
3. The buyer is not permitted to pledge the goods or to allow any other claim on them.

Article 9 Terms of Payment

1. Payment is due within 30 days from invoice date or as indicated otherwise by the seller. In exceeding this term the buyer is automatically in default and owes interest to the seller on the overdue amount at the rate of 1% per month as of the moment the default commences. During the default the seller reserves the right to stop further deliveries to the buyer.
2. In the event of liquidation or bankruptcy of or suspension of payment by the buyer, payments fall due immediately and the seller is authorised to suspend or cancel any agreement with the buyer, without prejudice to the seller's right to seek compensation or any other legal remedy.



3. If partial payments were agreed upon and the buyer defaults on one term, the full remaining amount will fall due immediately and without further notice. The interest as mentioned in paragraph 1 of this article will be applicable accordingly.
4. The bank charges shall be for 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 goods with non-defective goods. The buyer shall in that event give its full co-operation to the seller. The buyer is under the obligation to limit as much as possible the damages regarding the delivered goods for which he filed a complaint before the seller.
2. The seller shall not be liable for damage suffered by the buyer caused by or otherwise related to defective goods, 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 net purchase price excluding VAT of the goods concerned, as charged to the buyer by invoice. 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, trading loss, or loss of profits.
4. The seller shall furthermore in any event not be liable for damage caused by an alleged delay in the delivery of the goods.
5. Any potential claim based on these general terms and conditions shall expire if such claim has not been issued to the seller in writing within one year after the delivery of the goods.

Article 12 Use and warranty

1. The seller guarantees that the goods to be delivered by the seller conform to the best of its knowledge to the descriptions concerning those goods. No guarantees apply to the product specifications, if any: in case the goods 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 goods 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 goods, success in growing depends largely upon cultivation methods, soil and weather conditions.
3. The buyer explicitly acknowledges that the goods delivered by the seller are not suitable to be used for food, feed and sprouting purposes and should not be used for these purposes.
4. All quality data provided by the seller in writing are exclusively based on reproducible tests. These data indicate only the result as it is obtained by the seller at the time of the execution of the tests and for the circumstances that applied to the tests. No direct relation may be assumed between the data as provided and the result obtained by the buyer. The result obtained by the buyer depends amongst others from location, cultivation measures, for example the sowing medium used, and/or the climatic circumstances.
5. Any and all guarantees on the part of the seller lapse if the buyer carries out processes on the goods or causes processes to be carried out on them, repackages the goods or causes them to be repackaged, or uses and/or stores the goods incorrectly or causes them to be used/or stored incorrectly.
6. The seller does not guarantee in any way that the use, sale, transfer, production or any other possible act involving the delivered goods and/or the use sale, transfer, production or any other possible act involving the goods arising from the delivered goods does not infringe any (intellectual property) rights of third parties.

Article 13 Seed treatment at the request of the buyer

1. In case the goods, at special request of the buyer, are being treated by or on behalf of the seller, the seller does not provide any guarantee

regarding the effectiveness and/or consequences of such treatment. The seller shall not be liable for any damage resulting from treatment, performed at the special request of the buyer.

2. If the seller can nevertheless be held liable for any damages resulting from a treatment, performed at special request of the buyer, the liability of the seller shall be limited to the extent possible and at its sole discretion, to replacement of the goods or crediting the invoice related to the concerned goods. All data concerning the goods are based on tests, executed prior to the requested treatment.

Article 14 Defects, complaints terms

1. The buyer shall examine the goods on, or as soon as possible after, delivery and shall inform the seller within eight days after delivery in case not the correct goods have been delivered and/or not the agreed quantity has been delivered.
2. Complaints concerning apparent defects to the goods, including their packaging, must be reported to the seller in writing within eight days after the date of delivery of the goods to the buyer. Complaints concerning alleged non-apparent or hidden defects to the goods, 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. The batch, delivery and invoice details have to be specified. The buyer should also indicate under which circumstances the goods have been used and, in case of resale, to whom the goods have been resold. In the event that any complaint is not reported to the seller in writing within the stated period, the complaint will not be dealt with and the buyer will lose all rights to obtain any form of recovery, including damages.
3. In case of a permanent dispute between the parties about germination, trueness to type, varietal purity, technical purity or health, an assessment may be performed at the request of the buyer and/or the seller by the Naktuinbouw (ISTA station), in Roelofarendsveen, The Netherlands, or by another objective and independent body as agreed upon by the buyer and the seller, for the account of the unsuccessful party. The sample for this assessment will be taken from Rijk Zwaan. In case of a dispute about health, application of ISHI (International Seed Health Initiative) accepted methods is preferred. The outcome of the assessment will be binding on both parties, notwithstanding the

right of parties concerned to submit to the authorities referred to in article 21 any disputes about the consequences of this outcome.

4. Complaints concerning an invoice of the seller must be submitted to the seller in writing within fourteen days after the date of invoice. Submitting a complaint does not give the buyer any right to suspend payment of the concerned invoice.

Article 15 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 goods 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 sufficient insurance against all possible claims and liabilities emanating from the indemnity given in article 15.1. At first request of the seller, the insurance shall be submitted to the seller for its approval.

Article 16 Advices for cultural practices, variety descriptions, recommendations

1. Cultural advices from the seller are without engagement. Cultural advices, descriptions, recommendations and illustrations 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 goods. The buyer itself will be deemed to determine whether the goods 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 and susceptibility shall mean the following:
 - Immunity: is when a plant is not subject to attack or infection by a specified pest.
 - Resistance: is the ability of a plant variety to restrict the growth and/or development

of a specified pest and/or the damage it causes when compared to susceptible plant varieties under similar environmental conditions and pest pressure. Resistant varieties may exhibit some disease symptoms or damage under heavy pest pressure. Two levels of resistance are defined:

High resistance (HR): plant varieties that highly restrict the growth and/or development of the specified pest and/or the damage it causes under normal pest pressure when compared to susceptible varieties. These plant varieties may, however, exhibit some symptoms or damage under heavy pest pressure.

Intermediate resistance (IR): plant varieties that restrict the growth and/or development of the specified pest and/or the damage it causes, but may exhibit a greater range of symptoms or damage compared to high resistant varieties.

Intermediate resistant plant varieties will still show less severe symptoms or damage than susceptible plant varieties when grown under similar environmental conditions and/or pest pressure.

- **Susceptibility:** is the inability of a plant variety to restrict the growth and/or development of a specified pest.

Article 17 Force majeure

1. Force majeure is deemed to mean circumstances beyond the seller's control hampering or blocking the fulfilment of the agreement. This will include amongst others, 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/or other materials 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.
4. In case of force majeure, the seller will not be obliged to provide any compensation.



Article 18 Further use/cultivation and inspection

1. The buyer is not allowed to use the goods delivered for further production and/or reproduction of propagating 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.
3. The buyer is under the obligation to allow the seller, or anyone who controls on behalf of the seller, direct access to its business, including and in particular the greenhouses of its business, in order that the seller can carry out or have carried out inspections. “Business” in this article shall also mean any business activities that are carried out by a third party on behalf of the buyer. The buyer shall upon request also allow direct access to its administration with regard to the relevant propagating material.

Article 19 Usage of trademarks, logos and other signs

1. Unless otherwise agreed in writing, the buyer may not use, nor (cause to) register, trademarks, logos or other signs used by the seller to distinguish its goods 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 goods 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 20 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 21 Settlement of disputes

In the event of any disputes emanating from offers and agreements to which these terms and conditions apply, or being connected therewith, the



parties will resolve such disputes in a friendly way. Should this not be possible the dispute, unless parties agree to arbitration, will be settled by a court of law at the domicile of the seller, unless the applicable law according to article 22 provides for another court of law. The seller reserves the right to serve a summons on the buyer to appear in the court of the country where the buyer has its registered office.

Article 22 Applicable law

All agreements between the seller and the buyer are subject to the law of the country of domicile of the seller. 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, except where inconsistent with these terms and conditions or if the law of the country of the seller prevails.

Additional conditions for the sale of seeds per square meter to growers

Article 23 Amount

The amount of seeds to be bought will be determined in consultation by the production advisor of the seller and the buyer. This amount will be mentioned in the order form. To determine the amount of seeds, the number of square meter on which the buyer will grow plants shall be determined first. Said number shall also be mentioned in the order form. Starting point shall be a maximum amount of 2,5 (two and a half) plants per square meter, unless the seller and the buyer explicitly agree otherwise, which shall be mentioned in the order form. A deviation from the aforementioned starting point might have consequences for the price per net square meter.

Article 24 Payment

1. The price per net square meter as included in the order form is valid for one growing period as indicated in the order form. "Net" means that only the surface that can be used for the production of plants, will be taken into account for the determination of the number of square meters.
2. Invoicing for the amount due for the seeds, will take place in one term upon delivery.

Article 25 Use of the seeds

1. The buyer will (cause to) use the seeds only for one production of plants on the number of square meters and in the growing period as included in the order form. In case a variety is grown on more square meters than the square meters agreed upon, the buyer will pay to the seller twice the price as mentioned in article 24 for each square meter that exceeds the number of square meters as agreed upon. In case seeds remain after the period in which plants have been raised, the seller shall collect these seeds.
2. The buyer is not allowed to provide the seeds or any other material of a variety in whatever form to third parties. The buyer is however permitted to provide the seeds to a plant raiser if i) the plant raiser only uses the seeds to grow young plants for the buyer in accordance with the number of square meters and growing period as included in the order form and ii) the plant raiser delivers all the remaining seeds and all young plants that were grown out of the seeds to the buyer. For this purpose the buyer shall give the relevant information to the seller.