

# General Conditions

## Article 1. Definitions

- 1.1. In these general conditions, the following shall be construed to mean:
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| GC                    | : the general conditions of sale, delivery and payment in question;  |
| Agreement             | : all agreements referred to in article 2.1;   |
| Buyer                 | : any person who enters into an agreement with us as referred to in article 2.1;   |
| Days                  | : every calendar day;  |
| Complaints            | : any complaints of the buyer concerning quality or quantity of the delivered Natural Enemies, Pollinators and/or Products and/or Services;                                  |
| Destination           | : the place where the Natural Enemies, Pollinators and/or Products must be delivered in accordance with the agreement, insofar as delivery does not take place ex-warehouse; |
| Professional Relation | : a contracting party, either a natural person or a legal entity, acting whilst carrying on a profession or enterprise;  |
| Natural Enemies       | : natural enemies of diseases and pests;   |
| Pollinators           | : natural pollinators;   |
| Products              | : all other moveable property we sell and deliver, and/or make available, whether for payment or at no consideration;  |
| Advice                | : specific advice or consulting by Koppert B.V.;   |
| Services              | : all services supplied by Koppert B.V., with the exception of Advice.   |

## Article 2. Applicability

- 2.1 These GC are applicable to all our quotations, notifications, agreements of purchase and sale and activities performed by Koppert B.V. These GC are also applicable to all Advice and Services rendered by Koppert B.V.
- 2.2 If a buyer who enters into an agreement with us has his own general conditions which would apply to the agreement to be entered into, the conditions of this contracting party shall only apply in so far as we have agreed thereto in writing. Every agreement shall be entered into on the condition subsequent that our GC apply.
- 2.3 The provisions in article 2.1 and 2.2 may be deviated from by written agreement signed by both parties. If in such a case only one or more conditions of our GC are deviated from, the remaining conditions shall remain fully in force.
- 2.4 The buyer with whom agreements have been entered into on the basis of the present conditions shall be deemed to tacitly agree with the applicability of these conditions to agreements to be entered into with us in future.
- 2.5 These GC have been drawn up to apply to the legal relationship between Koppert B.V. and its professional relations. A contracting party may be considered a professional relation by us, unless the buyer informed us in writing at the time the agreement was entered into of the desire to contract as a private party. If, in that case, we enter into an agreement with the buyer, these GC shall apply, except where precluded by mandatory law.

## Article 3. Conclusion of agreements

- 3.1 Our quotations shall be without engagement.
- 3.2 Quoted prices shall only apply to the quantities quoted and vice versa.
- 3.3 An agreement with us is concluded in one of the following ways:
- by written confirmation on our part of an order placed by the buyer, provided this confirmation is signed by a person who is authorised to enter into the agreement;
  - by the reaching of a written consensus on an order form which is used by us and the signing thereof by our representative and the buyer, unless we notify the buyer in writing by not later than the fourth day thereafter that we refrain from giving our consent to the agreement, in which case no agreement has been concluded, except in case the agreement has already been performed, in whole or in part, by us.
- 3.4 Article 3.3 shall apply accordingly to amendments and/or additions to agreements entered into.
- 3.5 We retain all rights to the information contained in our quotations and the accompanying samples and instructions for use.

## Article 4. Prices

- 4.1 Unless agreed otherwise, our prices are always net and therefore exclusive of insurance, freight, duties and VAT.
- 4.2 If no binding price has been laid down in the agreement, the price generally used by us on the date of delivery shall apply.

## Article 5. Delivery, title and risk

- 5.1 Delivery takes place, depending on what has been agreed, by issue of the Natural Enemies, Pollinators and/or Products at the place of destination designated by the buyer or upon the buyer's collection of the Natural Enemies, Pollinators and/or Products at our company.
- 5.2 We retain title to the Natural Enemies, Pollinators and/or Products delivered until the buyer:
- has fully paid the purchase price;
  - has paid for the work carried out or to be carried out by us (insofar as at the buyer's expense); and
  - has met any obligations resulting from the failure to meet the buyer's contractual obligations.

- 5.3 If the buyer remains in default of meeting the obligations referred to under 5.2, we are entitled to retrieve the Natural Enemies, Pollinators and/or Products from whatever location at which they are found.
- 5.4 Unless expressly agreed otherwise, the times of delivery stated by us shall be treated as an approximation and shall never be considered strict deadlines.
- 5.5 The buyer is not entitled to any claims against us for compensation of any damages suffered in any manner as a result of late delivery, excepting in cases of intent or gross negligence on the part of Koppert B.V. The buyer indemnifies us against any claims that third parties may bring or attempt to bring against us on account of late delivery.
- 5.6 We reserve the right to make partial deliveries as determined by us. In such cases, the delivery will be considered to have been made upon the delivery of each partial delivery in accordance with article 5.1.
- 5.7 Excepting where otherwise agreed, the Natural Enemies, Pollinators and/or Products are transported at the expense and risk of the buyer.
- 5.8 Minor variations in regard to the stated measures, weights, quantities and other similar parameters shall not be deemed shortcomings.

## Article 6. Payment

- 6.1 All payments to be made to us under these GC shall be made in full without any discount or set-off within 30 days after the invoice date, free of charge to us, at our office or by transfer to our bank or giro account. Payment shall be made in the currency of the invoice. We shall be entitled to stipulate a shorter payment term.
- 6.2 In case of liquidation, insolvency, suspension of payments, bankruptcy, transfer of business or merger of the buyer; vesting of a pledge on goods delivered without our prior consent, termination of credit or freezing by the buyer's financier, buyer's obligations vis-à-vis us shall be payable immediately and the buyer is in breach effective immediately without prior notice of default.
- 6.3 If we have reason to expect that the buyer will not meet his obligations, we shall be empowered to demand from the buyer payment in advance or a security for compliance with his payment obligations, and to suspend the performance or further performance of the agreement until the advance payment has been made or the demanded security has been provided. If the buyer refuses to meet our request to that effect, we shall furthermore have the right to immediately demand the purchase sum, or to dissolve by cancellation the purchase agreement without prejudice to our right to full payment of damages.
- 6.4 If it is agreed that Natural Enemies, Pollinators and/or Products are to be sent under condition of cash on delivery and upon arrival of the Natural Enemies, Pollinators and/or Products at destination, the buyer refuses to pay the costs of the Natural Enemies, Pollinators and/or Products or the freight costs, we shall be entitled to dissolve the agreement with immediate effect by notice of cancellation.
- 6.5 If an agreement is dissolved pursuant to article 6.3 or 6.4, all costs of carriage, any storage or other costs, as well as our lost profit shall be for the account of the buyer.
- 6.6 If the buyer does not meet his payment obligation in full within the term referred to in article 6.1, the buyer is in breach without any further notice of default.
- 6.7 As soon as the buyer is in breach, the buyer is obliged to pay to us interest on the total exigible amount at the rate of the currently applicable statutory interest or commercial interest (as appropriate). This interest shall be exigible whether or not Koppert B.V. makes an explicit claim for payment of this interest. In addition, the buyer is obliged to compensate us in full for the losses we suffer as a result of a fall in the exchange rate of the currency in which payment is made as compared to the euro, calculated from the moment the agreement was entered into.
- 6.8 If the buyer fails to meet one or more obligations, all judicial and extrajudicial collection costs associated with the collection of these claims will be borne by the buyer. These costs shall at least include the internal costs incurred by us, as well as the costs of the attorney and/or bailiff in charge of said collection. The extrajudicial collection costs will comprise the reasonable costs incurred for obtaining an out-of-court settlement and the interest incurred thereon.

## Article 7. Force majeure

- 7.1 If one of the parties is unable to meet its obligations on account of circumstances beyond its control, it shall immediately orally inform its contracting party thereof and confirm this in writing. The party invoking force majeure with reason shall be entitled to suspend the performance of the agreement or to dissolve, in whole or in part, the agreement within 30 days after the fact causing the force majeure occurred, by a written statement to the contracting party, without having any obligation vis-à-vis the other party to indemnification.
- 7.2 Force majeure shall mean any circumstance beyond the control of parties - even if said circumstance was already foreseeable at the time of the conclusion of the agreement - as a result of which the compliance with and/or timely performance of the agreement can no longer, within reason, be expected by the contracting party, including in any case: war, danger of war, insurrection, fire, interruption in manufacturing, strike, lock-out, storm, transportation problems, snow, traffic problems, sickness of personnel, the non-compliance or delayed compliance with their obligations on the part of suppliers, flooding, hail, rain, fog, frost, black ice, crop failure.

#### Article 8. Complaints

- 8.1 The buyer shall inspect the Natural Enemies, Pollinators and/or Products immediately after receipt for visible defects. Once the Natural Enemies, Pollinators and/or Products are accepted by the buyer, they shall be deemed correctly delivered, unless they prove to have defects that cannot be detected upon reasonable inspection. The buyer will report any complaints on defects observed to us orally immediately after observation, and will confirm them in writing no later than within 2 days after observation, failing which the right to invoke the failure of the Natural Enemies, Pollinators and/or Products to answer to the agreement is cancelled.
- 8.2 Complaints shall be specified by a description as extensively as possible of the nature of the defect. Insufficiently specified complaints will not be accepted by us and do not affect the buyer's obligation to pay the full invoiced amount.
- 8.3 In the event of a complaint the buyer is, in part, obligated to give us the opportunity to inspect the crop in which the Natural Enemies, Pollinators and/or Products delivered by us are used, and the buyer shall give us access to all relevant data, including the registration of the climatological circumstances and the application records of chemical and non-chemical pesticides, fertilisers etc.
- 8.4 If in our opinion it is plausible that the application of the goods delivered by us, as a result of circumstances attributable to the buyer, will not lead to the intended result, we shall be entitled to discontinue any further deliveries. The buyer shall in that case be obliged, as regards the goods delivered, to pay a pro rata portion of the agreed price.
- 8.5 Non-visible defects shall be reported to us in writing immediately after detection, such also on the penalty of forfeiture of the right thereto.
- 8.6 In case of complaints, the buyer shall be obliged to follow our instructions, in failure whereof any claim on account of complaints on the part of the buyer shall lapse.
- 8.7 If the Natural Enemies, Pollinators and/or Products must be used outside the Netherlands, we shall only be responsible for the compliance of the Natural Enemies, Pollinators and/or Products to be delivered with the technical or biological requirements or standards set by the law or provisions in the country where the Natural Enemies, Pollinators and/or Products are to be used, if upon the conclusion of the agreement the buyer has made specific reference in writing of both the use in the specific country and the applicable requirements, and we have accepted these in writing.

#### Article 9. Warning

- 9.1 The buyer must be aware that the trading in and the application of the Natural Enemies and Pollinators and/or Products require a high level of monitoring and expertise. Consequently, the Buyer is obliged to adhere to the instructions, Advice and manuals prepared by us as regards transport, placement and handling of the Natural Enemies, Pollinators and/or Products as notified to the buyer by Koppert B.V. from time to time. We reserve the right to amend these instructions, Advice and manuals as frequently as we deem necessary.
- 9.2 The buyer is obliged to pass on all instructions, Advice and manuals received from us concerning the Natural Enemies, Pollinators and/or Products to any subsequent buyers.

#### Article 10. Liability, Limitation of Liability

- 10.1 We shall be liable for damage as a result of defects in the Natural Enemies, Pollinators and Products delivered, or as a result of incorrect Advice and Services, insofar as this is caused by intent or gross negligence on the part of Koppert B.V.
- 10.2 We shall only be obliged to pay damage which is the immediate and direct result of defects in the Natural Enemies, Pollinators and Products delivered. Specifically, the obligation to pay damages shall not cover damage as a result of loss of harvest, crop damage and/or damage due to deterioration of the structure of the soil. The payments of damages claimed shall not exceed the maximum referred to in paragraph 3 of this article.
- 10.3 Except in the case referred to under paragraph 1 of this article, our liability with respect to the Natural Enemies, Pollinators and Products delivered, as well as Services and Advice provided shall be limited to delivery of new Natural Enemies, Pollinators and/or Products free, or to reimbursement of 100% of the invoice amount or the portion thereof to which the damage relates, in case of a shortcoming attributable to us, other than as a result of exceeding a delivery term. This choice will be at our discretion.
- 10.4 If following our Advice on methods for the use of natural enemies/pollination fails to lead to a reasonable result and after registering a complaint, the buyer has carried out our instructions, we shall either (at our discretion) deliver free new Natural Enemies/Pollinators or credit the buyer for the Natural Enemies/Pollinators delivered, provided that the buyer demonstrates that according to the common opinion of experts the method of applying natural enemies/pollinators that we advised should not have been advised.
- 10.5 We are not liable vis-à-vis the buyer if:
- damage occurs due to improper use of the Natural Enemies, Pollinators and/or Products or as a result of defects attributable to the buyer in his operation or methods, or as a result of the use of substances or pest control method(s) harmful to the Natural Enemies, Pollinators and/or Products;
  - damage occurs due to the use of data provided by or on behalf of the buyer which subsequently proves to be incorrect or incomplete;
  - damage results from circumstances unforeseeable to us. Unforeseeable shall mean any circumstance not expressly mentioned by the buyer in reference to our liability when the agreement was entered into;
  - the buyer fails to follow the instructions, Advice and manuals received from us concerning the Natural Enemies, Pollinators and/or Products, or fails to inform any subsequent buyers accordingly;
  - the buyer uses the Natural Enemies/Pollinators and/or Products delivered outside the business or for personal purposes;
  - damages arise as a result of third party products delivered by us at the buyer's request, excepting in cases of intent or gross negligence on our part.

- 10.6 The buyer indemnifies us against all third party claims arising from improper use or use not in accordance with the requirements, instructions, Advice and manuals provided by us in relation to the Natural Enemies, Pollinators and/or Products, by the buyer or any person for whom the buyer is liable or to whom the buyer is obliged to pass on the requirements, instructions, Advice and manuals.
- 10.7 Because all our Services and Advice are based on the knowledge of and experience with the goods delivered by us, where we provide Services or Advice our liability is fully excluded if Natural Enemies, Pollinators and/or Products of third parties are applied to the crop. We cannot warrant that our Advice can be applied in the same way to Natural Enemies, Pollinators and/or Products delivered by third parties.
- 10.8 The contracting party indemnifies us against any claims which third parties may instigate against us in connection with Services and Advice given by us.
- 10.9 If on the basis of the special circumstances of the case the liability excluded or limited by us, cannot be accepted, our liability shall in any case be limited to the amount paid in the specific case under our liability insurance, up to a maximum of statutory liability.
- 10.10 Any claim for compensation of damages shall lapse in any event after 12 months calculated from the date on which the damage occurred.

#### Article 11. Dissolution of the Agreement

- 11.1 Without prejudice to the provisions in the previous articles and the law, we shall be entitled to suspend the performance of the agreement with immediate effect, either in whole or in part, without the requirement of a further notice of default or court intervention and without any obligation on our part to pay damages, to wit in the following cases:
- a. the buyer has been granted suspension of payments, has been declared bankrupt, or is otherwise insolvent;
  - b. an attachment is levied against the buyer;
  - c. the buyer dies or is placed under conservatorship;
  - d. the buyer does not meet an obligation imposed on it pursuant to statutory provisions, the agreement entered into or these GC;
  - e. the buyer decides to discontinue, liquidate or transfer its business or a significant portion thereof, or decides to change the object of its business.
- 11.2 In the cases referred to in the previous paragraph of this article, we shall be entitled to demand from the buyer payment of the activities and deliveries already carried out, including a payment for damages, costs and interests, as well as for any loss of profit on our part.

#### Article 12. No Reproduction

- 12.1 The buyer is forbidden to reproduce our Natural Enemies and/or Pollinators with the object of supplying the Natural Enemies and/or Pollinators produced to third parties.
- 12.2 For any violation of provisions in the above paragraph, the buyer shall incur a penalty payable to us with immediate effect and without any notice of default in the amount of EUR 10,000 for each violation and for each day the violation continues, without prejudice to our right to demand compliance with the obligations to which the penalty clause pertains and without prejudice to our right to claim full payment of damages under the law. The incurred penalties shall be subject to statutory interest payable as of the day they are incurred.

#### Article 13. Applicable law and the Competent Court

- 13.1 All our quotations, orders and Agreements (including Advice and Services) and agreements resulting therefrom or relating thereto are governed exclusively by Dutch law. Applicability of the Vienna Sales Convention is explicitly excluded.
- 13.2 The District Court of Rotterdam is exclusively competent to adjudicate any disputes, to the exclusion of all other forums.

#### Article 14. Proof

- 14.1 To assess the financial amount of the mutual obligations arising from the agreements entered into with us, our administrative data shall be decisive, barring evidence to the contrary by any means.
- 14.2 Barring evidence to the contrary by any means, measurements and weights mentioned in our invoice or bill of lading shall be deemed accepted as correct between the buyer and Koppert B.V.

#### Article 15. Amendment of Conditions and Nullity

- 15.1 We shall have to right to make amendments or additions to these GC without prior notice to our buyers, with the proviso that to orders given earlier, the conditions of the day on which the order was given shall apply, unless agreed otherwise.
- 15.2 If one or more of the present conditions have become or will become void or annulled due to statutory measures and/or court decisions, the applicability of the remaining conditions of these GC shall not be affected.
- 15.3 If any provision under an agreement or these GC has been annulled or is void, we shall replace this provision with a valid provision, which shall approximate the purpose of the agreement and/or the annulled/void provision as much as possible.

#### Article 16. Translations

These conditions have been drawn up in both the Dutch and the English language and filed with the Chamber of Commerce for Haaglanden, Delft office. In case of any discrepancy between the Dutch and the English text, the Dutch text shall be binding.

