



GENERAL TERMS AND CONDITIONS OF SALE

of

Molenaar & van Ginhoven Holland B.V.,

with registered office in 2165 BG Lissersbroek at Lissersbroekerweg 60, mailbox 27 2215 ZG Voorhout, hereinafter referred to as "M&G"

1. Definitions

The following definitions will be used in the following general terms and conditions of sale:

<i>Offer:</i>	every offer from M&G to the other party, including quotations
<i>General terms and conditions of sale:</i>	these general terms and conditions of sale
<i>Agreement:</i>	every agreement between M&G and the other party which comes about as well as every modification or addition to the latter
<i>Parties:</i>	M&G and the other party together
<i>Products:</i>	all products (to be) delivered by M&G
<i>Other party:</i>	every legal entity that concludes an agreement with M&G or wishes to do so.

2. General

1. These general terms and conditions of sale shall apply to any offers and/or agreements between the parties, and the execution thereof.
2. Any deviations in terms of the applicability and from the content of these terms and conditions must be expressly submitted in writing to M&G, and M&G must have accepted these by means of proof of receipt. Should this not be the case, then only the present terms and conditions shall apply.
3. M&G shall where possible make these terms and conditions available prior to or on the conclusion of the agreement. These general terms and conditions of sale can also be perused via <https://www.m-g.nl/en/terms-conditions/> and downloaded as a PDF from the latter.
4. The applicability of the general terms and conditions of sale utilised by the other party are explicitly excluded.
5. Should the translated text of these terms and conditions deviate from the Dutch text, the interpretation of the Dutch text shall be decisive.
6. By placing an order and/or taking delivery of the delivered goods, the other party accepts these terms and conditions and shall be deemed to have tacitly agreed to the exclusive applicability of these terms and conditions. This shall also apply in respect of any further verbal, telephonic or electronic orders or orders sent by telegraph, telex, or email or in another manner, irrespective of a written confirmation from M&G.
7. Should one or more provisions of these general terms and conditions be invalid or become voidable, the remaining provisions of the general terms and conditions of sale shall remain applicable in full. M&G and the other party shall then consult with one another in order to agree new provisions to replace the invalid or void provisions, in terms of which the aim and the purport of the original provision shall be observed if and insofar as this is possible.
8. M&G is entitled to unilaterally modify or augment the general terms and conditions of sale. The amendments and supplements shall also apply in respect of agreements which have already been concluded, provided that the other party is notified of these. Should the other party not accept the amendment, it must notify M&G of this in writing within 14 days of receipt of the amendment or supplement, in which case the agreement(s) existing at that time shall be executed under the operation of the old terms and conditions. New agreements shall be concluded under the operation of the new general terms and conditions of sale.
9. Communication via electronic means shall be considered as equivalent to written communication.

3. Offers

1. The offer shall only remain valid for a period to be indicated by M&G.
2. All offers shall be without obligation unless it is expressly stipulated otherwise in the offer.
3. All offers shall be based on the varieties and grade(s) available at that time and shall be based on a normal harvest.
4. Each offer shall be made subject to the proviso that:
 - a. it may be withdrawn without giving reasons,
 - b. on acceptance, delivery shall take place C.O.D..M&G may withdraw its offer so long as M&G has not accepted the order in writing.
5. M&G reserves the right to refuse orders without giving reasons.
6. Obvious mistakes or faults in the offer do not compel M&G. The other party can never avail itself thereof.

4. Agreement

1. Subject to the provisions below, an agreement shall only be concluded with M&G once M&G has expressly accepted/confirmed an order (in writing or otherwise), and/or once M&G has commenced with the execution thereof. The order confirmation shall be deemed to reflect the agreement accurately and in full.
2. If the acceptance of an offer by the other party differs from the offer, whether on minor points or not, as the case may be, , this entails no obligation for M&G.
3. Any additional arrangements or changes made subsequently, as well as (verbal) arrangements and or promises by M&G's personnel or made on behalf of M&G by its sellers, agents, representatives or other intermediaries shall only bind it if these have been confirmed by it in writing within 8 days of the arrangements being made.
4. For work for which, given the nature and scope thereof, no offer and/or order confirmation is sent, the invoice shall also be regarded as the order confirmation, which shall also be deemed to reflect the agreement accurately and in full. M&G's records shall be decisive in this regard.
5. M&G shall enter into each agreement subject to the suspensive condition that the other party - exclusively in the opinion of M&G - proves to be sufficiently creditworthy to fulfil the agreement in financial terms.
6. M&G shall be entitled, when entering into the agreement or thereafter, to require the other party to furnish security for the fulfilment of both his payment and other obligations, before M&G executes the agreement (further).

5 Execution of the agreement

1. M&G shall be entitled to bring in third parties for the execution of the agreement. M&G shall consult with the other party about this where possible and/or necessary.
2. The other party shall ensure that it provides M&G with all the information designated by M&G as required information, or information with respect to which the other party should reasonably have understood that this was necessary for the execution of the agreement in a timely manner. Should M&G not receive the information required for the execution of the agreement in good time, M&G shall be entitled to suspend the execution of the agreement and/or charge the other party any additional costs arising from the delay at the customary rates.
3. M&G shall not be liable for loss or damage of any kind whatsoever resulting from M&G proceeding on the basis of incorrect and/or incomplete information provided by the other party.
4. M&G will do everything within its power to meet its obligations in line with the agreement. However, M&G cannot be held accountable for delays or omissions if such delays or omissions are caused by conditions which cannot reasonably be deemed to be within M&G's control. In the event of delays, M&G will fulfil its obligations as fast as is reasonably possible.

6 Prices

1. All quotations shall be without obligation and shall be based on the applicable current price, unless expressly agreed otherwise in writing.
2. Unless indicated otherwise, M&G's prices shall:
 - only be valid for the period given in M&G's price information/brochures,
 - be based on delivery ex M&G's works/processing plant,
 - be exclusive of VAT, other taxes and levies,
 - be exclusive of the normal costs of packaging per standard quantity, which shall be charged at the applicable cost price,
 - be exclusive of the costs of transportation, insurance, quality checks by the National Plant Protection Organisation or other external bodies,
 - be given in Dutch currency, unless indicated otherwise.
3. M&G will specify the constituent parts of the applicable prices in the offer.
4. Any currency fluctuations shall be at the risk and expense of the other party.
5. Any interim price changes may be passed on with due observance of the statutory provisions in this regard.

7 Delivery and delivery duration

1. Delivery shall take place ex works/warehouse, unless agreed otherwise in writing and/or indicated on the invoice or another written document issued by M&G.
2. The risk shall pass to the other party when the goods leave the works/warehouse.
3. The agreed quantity to be delivered shall (in principle) be binding, subject to weather conditions and/or an abnormal (disappointing) harvest, in which case the quantity to be delivered may be adjusted. Should it not be possible to deliver the goods, or should it only be possible to deliver a very small quantity, M&G shall be entitled to cancel the agreement.
4. Minor deviations in/of the delivered goods (weight, colour, size, quantity and suchlike) which are not unusual shall be permitted and shall not entitle the other party to refuse to take delivery/pay. Substantial deviations shall be the subject of consultation with the other party.
5. M&G shall exert itself to comply with the delivery date as far as possible, but shall not be in any way liable should it exceed this.
6. The delivery date given by M&G shall never be a firm deadline. Should the delivery date be exceeded, the other party must give M&G written notice of default and set a reasonable period within which M&G is to fulfil its obligations. Exceeding the delivery date shall not oblige M&G to pay any compensation and shall not entitle the other party to dissolve the agreement and/or refuse to take delivery of the goods.
7. Should a firm delivery deadline between the parties have been stated explicitly in writing, the other party shall be entitled, should this deadline be exceeded, to dissolve the agreement if the other party can demonstrate that it is no longer able to sell the goods.
8. Should M&G have notified the other party (in writing) of the possibility of collecting the goods from the works/warehouse, and the other party does not collect the goods within a reasonable period, M&G shall be entitled to sell and deliver these goods to third parties, while the other party must make good any difference as a result of the lower proceeds, as well as pay all costs and interest as a result of his attributable non-performance.
9. The other party must check the goods delivered for deficiencies, defects, decay, etc. immediately, however no later than within 24 hours of delivery. Any complaints in this regard must be indicated on the delivery and/or shipping documents (CMR) and reported to M&G in writing within 10 days. Complaints will not be processed should the other party fail to do this.
10. The provisions of clause 14 shall apply in full. Should the other party, without having legally valid grounds for this, refuse to take delivery or fail to collect the goods, M&G shall be entitled, once a reasonable storage period has expired, to sell the goods. Any loss of proceeds and costs incurred shall be entirely for the account of the other party, without prejudice to any other rights.

8. Cancellation by the other party/Special requirements

1. The other party may only cancel the agreement if M&G does not suffer any loss or damage as a result of this and if the other party is absolutely unable to fulfil its obligations, which the other party must prove.
2. In the case of cancellation the other party shall in any event be obliged to pay 25% of the total order amount as loss of profits and compensation, unless the other party is not able to take delivery of the goods as a result of force majeure (the existence of which must be proved).

9. Import and export

Should any consent/approval (import permit and suchlike) be required for the import or export of the goods by operation of law, the other party must take care of this, also with regard to the implementing regulations. Should the other party fail to do so, De Ree may cancel the agreement and M&G shall be entitled to a cancellation fee as referred to in clause 8.

10. Transport

1. The method of transportation, shipment, packaging, etc. shall, if the other party does not give M&G any further instruction, be determined by M&G with the due care, without M&G bearing any liability for this. Any specific wishes of the other party in respect of the transportation/the shipment shall only be implemented if the other party has declared that it shall bear the additional costs of this.
2. The transportation of the goods shall in principle always be for the account and risk of the other party, even if the carrier requires that consignment notes, road waybills and suchlike contain the clause that all damage during transit is for the account and risk of M&G.
3. In the case of delivery carriage paid, the transport costs shall either be specified separately or shall be included in the cost price. In the case of transportation/shipment outside Europe, the method of transportation/shipment shall be determined by mutual consultation with the other party, without prejudice to the above. In the absence of notice to the contrary prior to departure or another instruction from the other party, the shipment shall be insured against damage during transit by M&G at the expense of the other party. These costs shall be charged on the invoice.

11. Packaging

1. Unless agreed otherwise, the goods shall be packaged in the manner customary to the bulb trade in general.
2. If agreed, M&G can provide the packaging to be used by the other party (for sale), and package the bulbs to be delivered in such packaging, against payment, to be charged separately.
3. Any remaining quantities of this sales packaging (boards, boxes, etc.) shall remain in M&G's warehouse at the expense and risk of the other party and shall be delivered to the other party on the termination of the business relationship. The other party shall be charged the cost price for this packaging. Once the relevant invoice has been paid, M&G shall give the other party the opportunity to take possession of the sales packaging.
4. The other party shall indemnify and will not hold M&G liable for claims from third parties with regard to intellectual and industrial property rights in respect of drawings, illustrations, designs, models, working methods and packaging provided to De Reel by or on the instructions of the other party or which are made by or on behalf of M&G in connection therewith.

12. Force majeure

1. Force majeure shall be understood to mean: Any circumstance beyond the control of and/or not foreseeable by the parties as a result of which the other party can no longer reasonably require M&G to fulfil the agreement.
2. "Force majeure" shall in any event be understood to mean: industrial action, excessive absenteeism due to illness of M&G's staff, transport problems, extreme weather conditions, the failure of the harvest, fire, flood, water damage, government measures, including in any event import and export bans, the fixing of quotas and the interruption of operations at M&G or at its suppliers, as well as non-performance by M&G's suppliers as a result of which it is unable or no longer able to fulfil its obligations vis-à-vis the other party.
3. Should a situation of force majeure arise, M&G shall be entitled to suspend the execution of the agreement or to definitively dissolve the agreement, without being obliged to pay any compensation for loss or damage. Consultations shall be held with the other party for this purpose. Should a situation of force majeure arise, M&G shall be entitled to demand payment for the performances which were carried out in respect of the execution of the relevant agreement before the circumstance causing the force majeure arose.

13. Liability

1. The total liability of M&G shall, regardless of the grounds on which this is based, be limited to compensation for direct loss or damage which has been demonstrably sustained, and up to a maximum of the amount (excluding any VAT charged) charged for the item or items the defectiveness of which has led to the loss or damage. The liability shall at all times be limited to the amount of the payment to be disbursed by M&G's insurer in the respective case, irrespective of the grounds for the claim.
2. M&G shall never be liable for indirect loss, including consequential loss, loss of profits, lost savings and loss as a result of business stagnation. The aforesaid maximum amounts shall cease to apply if and insofar as the loss or damage is the result of gross negligence or intention on the part of M&G and/or its staff.
3. M&G shall in any event not be liable for, at its discretion:
 - the products delivered flowering too well or not well enough,
 - loss or damage as a result of the processing/treatment or use of the delivered goods by the other party,
 - loss or damage caused by the condition of the (planted) soil used,
 - physical symptoms of persons who have come into contact with the delivered goods (allergies, skin disorders, etc.)
 - loss or damage caused by the use or as a result of the unsuitability of the delivered goods for the purpose for which the other party has purchased these.
3. The other party expressly and fully indemnifies M&G against any claim for damages as referred to in sub-clause 2, both from the other party itself and its staff as well as from third parties.
4. Any legal claim of the other party pursuant to an agreement with M&G shall lapse one year after the claim arose.

14. Retention of title

1. The goods delivered shall only become the property of the other party once the other party has satisfied all claims which M&G has against the other party in respect of the delivered goods and/or in respect of a failure to fulfil the agreement. As regards the consequences of the retention of title pursuant to Dutch property law, the goods to be delivered shall be regarded as being located in the Netherlands at the time of the delivery.
2. The other party shall not be entitled to pledge the goods which are subject to the retention of title nor to encumber them in any other way.
3. Should third parties attach the goods delivered subject to the retention of title, or wish to establish or assert rights thereon, the other party shall be obliged to notify M&G of this as quickly as may reasonably be expected.
4. The other party undertakes to insure the goods delivered subject to the retention of title and to keep these insured against fire, explosion and water damage as well as against theft and to allow the policy to be inspected on first request.
5. The goods delivered by M&G which are subject to the retention of title pursuant to sub-clause 1 of this clause may never be used as a means of payment.
6. Should M&G wish to exercise its ownership rights as designated in this clause, the other party hereby gives, now for henceforth, its unconditional and revocable consent to M&G or third parties to be appointed by M&G to enter all the sites where the property of M&G is located and to take back the goods.

15. Nonpossessory pledge

The handing over of the goods shall be regarded as establishing a nonpossessory pledge on such goods, which the other party agrees to by signing/accepting these terms and conditions. Insofar as a deed is required for this purpose, the other party shall sign the deed of pledge at the request of M&G. Should the other party fail to do so, M&G shall be authorised by the other party to sign the deed of pledge on behalf of the other party.

16. Payment

1. Unless agreed otherwise payment must be made without any discount or set off by means of deposit or transfer to an account designated by M&G within 30 days of the date of invoice. The value date given on M&G's bank statements shall be decisive and shall therefore be regarded as the date of payment.
2. Any payment by the other party shall be used firstly to settle the interest payable by it, as well as the collection costs and/or administrative costs incurred by M&G and shall then be deducted from the oldest outstanding claim.
3. Should the other party:
 - a. be declared bankrupt, submit a petition to be declared bankrupt, assign an estate, submit a request for the suspension of payment, or should all or part of the property of the other party be attached or should the other party otherwise lose the power to dispose of his assets or part thereof,
 - b. die, be placed under tutelage or become subject to the Debt Rescheduling (Natural Persons) Act,
 - c. fail to fulfil any obligation incumbent upon it pursuant to the law, an agreement or these general terms and conditions of sale,
 - d. fail to pay an invoice amount or part thereof within the set period,
 - e. cease or transfer its business or a substantial part thereof, including bringing its business into a company to be founded or that already exists or should the other party change its business,

M&G shall be entitled, as a result of the mere occurrence of one of the aforementioned circumstances, either to dissolve the agreement without any judicial intervention being required, or to demand immediate and full payment of any amount owed by the other party on the basis of work and/or deliveries carried out by M&G, without any warning or notice of default being required, all without prejudice to its right to compensation for costs, loss or damage and interest.

17. Interest and costs

1. Should payment not have been made within the period referred to in the previous clause, the other party shall be in default by operation of law and shall, as from the invoice date, owe interest of 1% per (part of a) month on the amount still outstanding.
2. All judicial and extrajudicial costs to be incurred shall be for the account of the other party. The extrajudicial collection costs shall amount to at least 15% of the amount owed by the other party, including the afore mentioned interest, subject to a minimum of € 500. The above shall also apply should only a single warning have been sent or the extrajudicial collection activities have been otherwise restricted.

18. Disputes

1. All disputes shall be settled by the competent Civil Court in Amsterdam, the Netherlands, M&G's chosen place of domicile.
2. The provisions of sub-clause 1 shall not affect M&G's right to submit the dispute to the Civil Court with jurisdiction according to the normal rules of jurisdiction, or to have this settled by means of arbitration or a binding 3rd party ruling.

19. Applicable law

1. All offers, agreements and these general terms and conditions of sale of M&G as well as the execution thereof shall be subject exclusively to Dutch law. The UN Convention on Contracts for the International Sale of Goods (Vienna Sales Convention of 11 April 1980) is expressly excluded.
2. M&G's exports shall also be subject to the most recent Incoterms, as laid down by the International Chamber of Commerce in Paris, with respect to the interpretation of commercial terms. The Dutch Incoterms text shall be binding.

20. Data protection

M&G sets great store in the careful handling and protection of personal details. The manner in which M&G deals with the personal details provided by the other party has been laid down in M&G's privacy declaration. The latter can be perused at <https://www.m-g.nl/en/privacystatement>

21. Complaints procedure

1. Complaints concerning the execution of the agreement must be submitted, in detail, clearly described to M&G via sales@m-g.nl within an implementable timeframe after the other party has observed the deficiencies.
2. M&G shall strive to respond to complaints inside a term of 14 days, calculated from the date of receipt. If a complaint can reasonably be expected to require a longer timeframe within which to answer, M&G will answer providing a message of receipt and an indication of when the other party may expect a more detailed response inside 14 days.