



General Terms and Conditions of Sale and Delivery Hortus Supplies International B.V.

1. Definitions

- a. In these general terms and conditions, the following terms – provided they are capitalised – will have the following meanings:

General Terms and Conditions: this version of HSI's general terms and conditions;

HSI: the private limited liability company Hortus Supplies International B.V., having its registered office in Aalsmeer;

Agreement: the agreement between the Parties;

Parties: HSI and the Other Party;

Supplier: a supplier of HSI or another third party on which HSI depends for the performance of the Agreement;

Other Party: the party with which HSI has concluded the Agreement.

2. General Terms and Conditions and formation of Agreement

- a. The General Terms and Conditions apply to all offers issued by HSI and to the Agreement.
- b. HSI's offers will always be free of obligation and will be valid for a maximum of one (1) month, unless HSI has specified a different period.

3. Force majeure

- a. The following situations constitute force majeure for HSI:
- i. unforeseen circumstances of any nature which prevent HSI from fulfilling its obligations under the Agreement, or from doing so in time or without onerous additional efforts and/or costs;
 - ii. strike action at HSI or at a Supplier;
 - iii. illness among HSI staff or a Supplier's staff;
 - iv. a Supplier going bankrupt;
 - v. a force majeure situation as described in this article affecting a Supplier;
 - vi. a Supplier's failure to fulfil its obligations for any reason whatsoever;
 - vii. any other failure in the fulfilment of an obligation arising from the Agreement that is beyond HSI's control and should not be at HSI's expense in terms of the law, a legal act or common opinion.



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- b. If the force majeure affecting HSI is of a permanent nature or has lasted for a consecutive period of thirty (30) days, or if it is certain that the force majeure situation will last at least thirty (30) days, either Party will be entitled to end the Agreement with immediate effect through dissolution or notice of termination.

4. Delivery and delivery deadlines

- a. HSI will start delivering the items concerned or performing the services agreed as soon as possible after the formation of the Agreement.
- b. All delivery deadlines and other deadlines applied by HSI are target deadlines only and as such are expressly not final deadlines.
- c. If the Agreement provides not only for the delivery of items but also for their installation, delivery will be deemed to have taken place as soon as the item has been installed in working order and has been transferred after joint testing, or, if no testing occurred, after the item has been used by the Other Party. The installation will in any case be deemed to have been used eight days after the item was installed.
- d. HSI will be entitled to suspend the delivery of the items or services concerned for as long as the Other Party has not fulfilled all its payment and other obligations under the Agreement.

5. Retention of title and risk

- a. HSI will retain the title to all the items supplied to the Other Party until the Other Party has completely fulfilled all its payment obligations and other obligations towards HSI under the Agreement, including claims resulting from failure to fulfil any obligation under the Agreement.
- b. The agreed form of transport (ex works, free carrier, etc.) will be decisive for the Parties' rights and obligations relating to the delivery of the items concerned. The description of the rights and obligations in the Incoterms of the International Chamber of Commerce will be the guiding principle in this context, unless the Agreement or the General Terms and Conditions provide otherwise.
- c. The risk attached to the items supplied or provided by HSI to the Other Party will in any case pass to the Other Party from the moment of actual delivery or provision to the Other Party. In this article, 'risk' also includes losses due to storm, water, fire and/or theft.

6. Complaints

- a. If the Other Party detects a defect in an item supplied by HSI, the Other Party must notify HSI of this in writing within seven days after detecting the defect, providing a clear description of the defect detected.
- b. If no such written notification is made in time as stipulated in this article, HSI will be deemed to have correctly fulfilled all its obligations towards the Other Party under the Agreement.



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7. Warranty

- a. HSI will only have warranty obligations if and insofar as these were expressly agreed when the Agreement was concluded and a clear warranty period was specified on that occasion.
- b. The warranty obligations comprise the following:
 - i. If the agreed performance consists of contracting work, HSI will guarantee the reliability of the construction delivered and the materials used during the warranty period. If the construction delivered or the materials used turn out not to be reliable, HSI will repair or replace them. The components to be repaired at HSI or to be replaced by HSI must be sent to HSI postage paid. The costs of removing or assembling these components and any travel and subsistence expenses will be payable by the Other Party.
 - ii. If the agreed performance consists of the treatment/repair of materials supplied by the Other Party, HSI will guarantee the reliability of the item supplied during the agreed warranty period. If the item supplied turns out not to be reliable, the item must be returned to HSI postage paid. HSI will then decide whether to repair the item, to replace the item or to credit the Other Party for a proportional part of the invoice.
 - iii. If the agreed performance consists of the supply of items, only the warranty issued by the Supplier in this respect will apply. The Other Party can only invoke the warranty if and insofar as it has fulfilled all its payment and other obligations under the Agreement. No warranty will be given in respect of defects resulting from normal wear and tear, improper use, failure to perform maintenance or incorrectly performed maintenance, or if the installation, assembly, alterations or repairs were carried out by the Other Party itself or by a third party not engaged by HSI.

8. Price and payments

- a. Price estimates will always be based on the prices applicable at the time of the offer or at the time of the conclusion of the Agreement.
- b. Unless expressly stated otherwise, the prices of items specified by HSI will always be ex works and ex VAT. HSI is entitled to pass on to the Other Party the costs of transport, insurance, etc. and – where applicable – the costs of installation.
- c. If any price increases occur between the time of the conclusion of the Agreement and the time of the fulfilment of the obligation under the Agreement on HSI's part – for example with regard to tax charges, excise duty, raw materials and/or transport costs – HSI will be entitled to pass these price increases on to the Other Party. If the aforesaid price increases are not proportional to the level of the price estimates at the time of the conclusion of the Agreement, either Party will be entitled to terminate the Agreement.
- d. The Other Party must pay HSI the amounts charged within the payment term specified on the invoice, without the Other Party being entitled to any set-off and/or suspension. A payment term of fourteen days of the invoice date will apply unless the invoice specifies a (different) payment term.



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- e. If the Other Party fails to pay within the payment term referred to in the previous paragraph, the Other Party will be in default by operation of law and, without any further notice of default, will owe commercial interest at the statutory rate plus 3% on the amount owed with effect from the due date, subject to a minimum of 0.8% per month. In that case, the Other Party will also owe HSI the extrajudicial collection costs, which are set at 15% of the amount owed, subject to a minimum of EUR 500.00. Without prejudice to the foregoing, the Other Party will be obliged to reimburse HSI for all costs reasonably incurred by the latter, including the full costs of legal assistance.
- f. HSI is entitled at any time to ask the Other Party to furnish security for the fulfilment of its payment and other obligations under the Agreement. The Other Party will be obliged to provide the requested security to HSI without delay. If the Other Party fails to furnish adequate security without delay, HSI will be entitled to suspend its obligations under the Agreement until the Other Party eventually complies with this request.

9. Liability

- a. HSI will never be liable to the Other Party for consequential losses, indirect losses and trading losses, including – but not limited to – lost profit, business interruption, loss of goodwill and reputational damage.
- b. If and insofar as HSI bears any liability on whatever ground, this liability will be expressly limited to the amount paid out by HSI's liability insurer or other insurer in the case concerned.
- c. If, in the event of liability on HSI's part, HSI's liability insurer or other insurer does not make any payout for whatever reason, any liability on HSI's part will be limited to EUR 15,000.00 per event or series of events with the same cause.
- d. HSI will never be liable for losses sustained by the Other Party or any third party as a result of the incorrect and/or inexpert use of items or services supplied by HSI. HSI will never be liable for losses resulting from normal wear and tear, improper use, failure to perform maintenance or incorrectly performed maintenance, or if the installation, assembly, alterations or repairs were carried out by the Other Party or by a third party not engaged by HSI.
- e. Any claim for compensation pursuant to liability on HSI's part for defects in the items supplied or services performed will lapse through the expiry of one year after the moment when the items were supplied or the services were performed.
- f. If the Agreement also provides for the installation of items and/or the performance of other services, the Other Party indemnifies HSI, its staff and third parties engaged by it against losses they sustain, whether or not in the course of their activities, on the Other Party's business premises or at the location where the activities are to be performed.



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10. Termination of Agreement

- a. HSI will be entitled to terminate the Agreement with immediate effect if:
 - the Other Party is declared bankrupt;
 - the Other Party applies for a moratorium;
 - the Other Party ceases or otherwise winds up its operations;
 - the Other Party loses the power to dispose of its assets or a substantial part of its assets due to an attachment or for any other reason.
- b. In the event that HSI terminates the Agreement, the Other Party will be obliged to pay HSI all the amounts owed to HSI, plus the interest and extrajudicial and other costs stipulated in the General Terms and Conditions, as immediately due and payable debts, without prejudice to HSI's right to full compensation, including any other costs, losses and interest incurred as a result of the termination.

11. Miscellaneous

- a. Amendments or additions to the Agreement and the General Terms and Conditions will only be binding on the Parties if and insofar as they have been laid down in writing.
- b. If one or more provisions of the General Terms and Conditions proves to be or become nonbinding, irrespective of the reason, the remaining provisions will remain in full force between the Parties. In that case, the Parties undertake to replace a non-binding provision by a provision that is binding and that – in view of the tenor and purport of the General Terms and Conditions – resembles the non-binding provision as closely as possible.
- c. If the Other Party comprises several parties, each of these parties will be jointly and severally liable to HSI for the fulfilment of the obligations under the Agreement, including the provisions of the General Terms and Conditions.
- d. The Other Party is not authorized to transfer its rights and obligations under the Agreement to a third party without express written permission from HSI.

12. Dutch law and competent court

- a. The Agreement is governed exclusively by Dutch law. The applicability of the Vienna Sales Convention is expressly excluded.
- b. The District Court of Amsterdam will have exclusive jurisdiction in the first instance to hear all disputes arising from or relating to the Agreement.

These conditions have been filed with the Amsterdam Chamber of Commerce under number 34218959.

Aalsmeer, 6 April 2021