

General terms and conditions of Orchids Direct Europe B.V.

ARTICLE 1: Definitions

- 1.1. General Conditions: these general terms and conditions of ORCHIDS DIRECT EUROPE B.V.;
- 1.2. ORCHIDS DIRECT EUROPE B.V.: the private company with limited liability ORCHIDS DIRECT EUROPE B.V., its affiliated entities and/or third parties designated by ORCHIDS DIRECT EUROPE B.V. (if any);
- 1.3. Offers: a non-binding offer from a supplier to ORCHIDS DIRECT EUROPE B.V., in any form;
- 1.4. Supplier: the natural or legal person who has entered into an agreement with ORCHIDS DIRECT EUROPE B.V., or wishes to enter into such an agreement with ORCHIDS DIRECT EUROPE B.V. and has made an Offer to ORCHIDS DIRECT EUROPE B.V., or to whom ORCHIDS DIRECT EUROPE B.V. has made an Offer;
- 1.5. Parties: ORCHIDS DIRECT EUROPE B.V. and Supplier jointly.

ARTICLE 2: Application of general terms and conditions

- 2.1. These General Conditions apply to all requests and acceptances by and all orders placed by ORCHIDS DIRECT EUROPE B.V., to all Offers made by Supplier to ORCHIDS DIRECT EUROPE B.V., and to all agreements concluded by ORCHIDS DIRECT EUROPE B.V. with Supplier.
- 2.2. These General Purchase Conditions may only be deviated from by written agreement, provided that ORCHIDS DIRECT EUROPE B.V. is represented by a person authorized under the articles of association of ORCHIDS DIRECT EUROPE B.V. Such deviation does not have a binding effect on other agreements/legal acts between ORCHIDS DIRECT EUROPE B.V. and Supplier.
- 2.3. Supplier agrees to the applicability of these General Conditions to future agreements/legal acts between Supplier and ORCHIDS DIRECT EUROPE B.V. Supplier agrees that in this case these General Conditions do not need to be provided again.
- 2.4. The applicability of the general (delivery) terms and conditions of Supplier is expressly excluded, unless expressly agreed otherwise in writing by the Parties. In the event that both the general terms and conditions of ORCHIDS DIRECT EUROPE B.V. and Supplier apply, the General Conditions of ORCHIDS DIRECT EUROPE B.V. prevail in the event of conflicting provisions.

ARTICLE 3: Offers and requests

- 3.1. All Offers made by Supplier – in any form – are binding and irrevocable, unless expressly agreed otherwise in writing.
- 3.2. All requests/orders placed by ORCHIDS DIRECT EUROPE B.V. – in any form – are non-binding, unless expressly agreed otherwise in writing.
- 3.3. If ORCHIDS DIRECT EUROPE B.V. accepts an Offer from Supplier or Supplier accepts a request/order from ORCHIDS DIRECT EUROPE B.V., ORCHIDS DIRECT EUROPE B.V. has the right to revoke this acceptance or non-binding request/order within a period of seven (7) working days.

ARTICLE 4: Conclusion and amendment of agreement

- 4.1. An order confirmation is only binding on ORCHIDS DIRECT EUROPE B.V. if it is expressly acknowledged in writing by ORCHIDS DIRECT EUROPE B.V.
- 4.2. An agreement is concluded as soon as ORCHIDS DIRECT EUROPE B.V. has accepted the order confirmation/agreement drawn up by it in writing.
- 4.3. Oral acceptances/confirmations do not bind ORCHIDS DIRECT EUROPE B.V., unless they are subsequently confirmed in writing by a person authorized under the articles of association of ORCHIDS DIRECT EUROPE B.V. or another person authorized by ORCHIDS DIRECT EUROPE B.V.
- 4.4. ORCHIDS DIRECT EUROPE B.V. reserves the right to amend an agreement, including but not limited to, the quantities, specifications, requirements, and specifications of the purchased goods. If the changes requested by ORCHIDS DIRECT EUROPE B.V. result in changes in price, delivery time or other conditions, Supplier must communicate this in writing to ORCHIDS DIRECT EUROPE B.V. immediately, but no later than 5 working days after the request by ORCHIDS DIRECT EUROPE B.V.

ARTICLE 5: Obligations of Supplier

- 5.1. Supplier must ensure that its business activities comply with the agreed specifications, as well as the highest applicable quality standards and all national and European regulations, including but not limited to phytosanitary requirements, safety, working conditions, and other customary industry requirements.
- 5.2. Supplier undertakes towards ORCHIDS DIRECT EUROPE B.V. to investigate with due care and ensure appropriately that no rights of third parties exist with respect to the goods.

ARTICLE 6: Payment

- 6.1. Unless Parties have explicitly agreed otherwise in writing, Supplier shall only invoice ORCHIDS DIRECT EUROPE B.V. for the amounts due under the agreement, specified and provided with an order number, after full delivery of the goods. Invoices that do not comply with these requirements shall not be processed and will be returned.
- 6.2. Partial invoices and partial payments are only allowed if and to the extent that Supplier has obtained explicit written consent from ORCHIDS DIRECT EUROPE B.V.
- 6.3. Unless agreed otherwise in writing, payment will be made as much as possible within 30 days after receipt of the invoice. If an invoice is returned to Supplier for correction or complaint, the payment term will start from the date of receipt of the correctly corrected invoice.
- 6.4. If payment is made via an intermediary, the payment term commences on the date of delivery of the goods.
- 6.5. Payment by ORCHIDS DIRECT EUROPE B.V. in no way waives any rights.
- 6.6. ORCHIDS DIRECT EUROPE B.V. is entitled to offset any due counterclaims against Supplier's invoices.

- 6.7. ORCHIDS DIRECT EUROPE B.V. is always authorized to pay on behalf of its affiliated companies. ORCHIDS DIRECT EUROPE B.V. is also entitled at all times to offset debts owed by and to its affiliated entity with debts owed to and by Supplier.
- 6.8. With advance payment or installment payments, ORCHIDS DIRECT EUROPE B.V. is entitled to demand guarantees for the fulfillment of Supplier's obligations arising from the agreement.
- 6.9. If ORCHIDS DIRECT EUROPE B.V. fails to meet its payment obligations in a timely manner, it shall not be liable for any more than the statutory interest, and shall not be liable until Supplier has been given a reasonable period in writing to fulfill its obligations.
- 6.10. Supplier is not allowed to transfer its claim to ORCHIDS DIRECT EUROPE B.V. to third parties without the express written consent of ORCHIDS DIRECT EUROPE B.V..

ARTICLE 7: Delivery

- 7.1. Delivery by Supplier takes place "ex works" of Supplier or "Delivered Duty Paid" by Supplier to the delivery address indicated by ORCHIDS DIRECT EUROPE B.V., unless Parties have explicitly agreed otherwise in writing. The method of delivery will always be stated on the order confirmation. For the interpretation of the delivery conditions, reference is made to the latest published version of the "Incoterms 2020" at the time of conclusion of the agreement.
- 7.2. Transfer of ownership and risk of the goods passes on physical delivery of the goods, regardless of whether payment has been made for the delivered goods.
- 7.3. If payment is made before delivery, ownership rights over the goods transfer to ORCHIDS DIRECT EUROPE B.V. at the time of payment. In that case, Supplier is obliged to store the relevant goods separately as ORCHIDS DIRECT EUROPE B.V.'s tangible property from the date of payment by ORCHIDS DIRECT EUROPE B.V. The goods will nevertheless remain at the risk of Supplier as holder of the goods until the goods have been delivered to the delivery address specified by ORCHIDS DIRECT EUROPE B.V.
- 7.4. Supplier declares that there are no other rights on the goods to be delivered than his property rights. ORCHIDS DIRECT EUROPE B.V. does not accept any retention of title in any way or form.
- 7.5. The agreed time of delivery between ORCHIDS DIRECT EUROPE B.V. and Supplier is a strict deadline. In case of non-delivery or delivery after the agreed deadline, Supplier is automatically in default without the need for a further notice of default from ORCHIDS DIRECT EUROPE B.V.
- 7.6. Supplier must immediately inform ORCHIDS DIRECT EUROPE B.V. in writing of any circumstance that may cause a delay in delivery. In such a case, ORCHIDS DIRECT EUROPE B.V. is obliged to do everything possible to fulfill its obligations, without prejudice to the other powers of ORCHIDS DIRECT EUROPE B.V. as laid down in these General Terms and Conditions.
- 7.7. If the delivery of goods is delayed by factors that are the responsibility and risk of Supplier, any resulting costs and damages to ORCHIDS DIRECT EUROPE B.V. must be compensated by Supplier.

ARTICLE 8: Force Majeure

- 8.1. ORCHIDS DIRECT EUROPE B.V. is not liable for a (partial) failure to fulfill its obligations and cannot be held liable, if as a result of a force majeure situation, ORCHIDS DIRECT EUROPE B.V. is unable and/or cannot reasonably be expected to fulfill all or part of its obligations under the agreement.
- 8.2. ORCHIDS DIRECT EUROPE B.V. is entitled to suspend the performance of its obligations for the duration of the force majeure situation. If ORCHIDS DIRECT EUROPE B.V. has suspended its obligations wholly or partly for longer than 2 weeks, or is permanently unable to perform the agreement due to force majeure, ORCHIDS DIRECT EUROPE B.V. is entitled to terminate the agreement immediately, in whole or in part, without any obligation to compensate Orchard Direct Europe B.V.
- 8.3. ORCHIDS DIRECT EUROPE B.V. is also entitled to claim force majeure if the circumstance that obstructs (further) compliance occurred after ORCHIDS DIRECT EUROPE B.V. should have fulfilled its obligation.
- 8.4. If the Supplier is prevented from performing the agreement due to force majeure, ORCHIDS DIRECT EUROPE B.V. is entitled to suspend the performance of its obligations and/or to terminate the agreement immediately and without any further notice, in whole or in part, without any obligation to compensate ORCHIDS DIRECT EUROPE B.V.
- 8.5. If reasonably required, the Supplier undertakes to eliminate every cause of the force majeure as soon as possible.
- 8.6. Force majeure shall be understood to mean circumstances that are reasonably not attributable to the fault of the Parties and that are reasonably not their responsibility. This shall include, but not be limited to: government measures, epidemics, pandemics, mobilization, war, war danger, revolutions, uprising and/or civil unrest, (terrorist) attacks, unrest, disruptions, (wild and/or political) strikes, exclusion, seizure, interruption of production, lack of transport opportunities, natural disasters, flooding, extraordinary insect infestation, fire, explosion, quarantine, extraordinary weather conditions, illness of the staff of ORCHIDS DIRECT EUROPE B.V., work stoppage at ORCHIDS DIRECT EUROPE B.V., liquidity or solvency problems at ORCHIDS DIRECT EUROPE B.V., a failure to perform, a decrease in demand by and/or force majeure on the part of the (legal) persons to whom ORCHIDS DIRECT EUROPE B.V. delivers the relevant goods and/or on whom ORCHIDS DIRECT EUROPE B.V. is otherwise dependent for the performance of the agreement, unforeseeable stagnation among (sub)suppliers or other third parties on whom ORCHIDS DIRECT EUROPE B.V. is dependent and general transport problems at ORCHIDS DIRECT EUROPE B.V.

ARTICLE 9: Product Quality

- 9.1. The Supplier guarantees that the goods delivered meet the agreement and are so warranted for a period of 24 (twenty-four) hours after delivery as described in Article 7.1. To that end, the Supplier guarantees, among other things, that the delivered goods:
- a. have the characteristics, quality, composition, packaging, information, and specifications as described in the agreement, the Supplier's specifications and information provided, and the reasonable expectations of the Supplier;
 - b. are of good quality, free of defects, third-party (proprietary) rights, and in particular free from domestic or foreign intellectual property rights or other protective rights;
 - c. are manufactured in a professional manner, by skilled personnel and using new materials;
 - d. comply with applicable legal requirements and customary norms and (European) standards;
 - e. are provided with an indication of the manufacturer or the person who places the goods on the market;
 - f. are provided with all necessary data and instructions for proper and safe use;
 - g. The Supplier guarantees the import, export, and transit of the goods to the known place of destination.
- 9.2. If the delivered goods do not meet the agreement, the Supplier will, at his expense and upon first notice and at the option of ORCHIDS DIRECT EUROPE B.V., take back, repair and/or replace the goods within a reasonable time, unless ORCHIDS DIRECT EUROPE B.V. prefers to terminate the agreement in accordance with these General Terms and Conditions. ORCHIDS DIRECT EUROPE B.V. has the right to take action on its own to repair and claim the costs incurred from the Supplier in the event the Supplier fails to fulfill his warranty obligations.

ARTICLE 10: Liability and Indemnification

- 10.1. Except in the case of intent or gross negligence, any liability of ORCHIDS DIRECT EUROPE B.V. under any circumstances or for any damages is excluded.
- 10.2. The Supplier is liable for all damages, including direct and indirect damages, that ORCHIDS DIRECT EUROPE B.V. suffers as a result of a failure to comply with obligations and/or any wrongful or negligent acts or omissions on the part of the Supplier, his employees, or third parties engaged by him. Direct damage explicitly includes, but is not limited to, (i) property damage, (ii) reasonable costs of determining the cause and extent of the damage, (iii) the costs incurred by ORCHIDS DIRECT EUROPE B.V. to make the defective performance of the Supplier comply with the agreement, and (iv) the costs incurred by ORCHIDS DIRECT EUROPE B.V. to prevent or limit direct damage. Indirect damage explicitly includes, but is not limited to, (i) consequential damages, (ii) loss of income and opportunities, (iii) loss of profit, and (iv) damages resulting from reputational damage and business interruption.
- 10.3. The Supplier shall indemnify ORCHIDS DIRECT EUROPE B.V. against all claims by third parties, including the costs of legal assistance, arising from or related to the agreement, except for intent or gross negligence on the part of ORCHIDS DIRECT EUROPE B.V.. This provision applies inter alia in the case of product liability under Article 6:185 of the Dutch Civil Code.

ARTIKEL 11: Intellectuele eigendomsrechten

- 11.1. Alle intellectuele eigendoms- en soortgelijke rechten met betrekking tot de zaken, tekeningen, mallen, teksten, materialen, ontwerpen, schetsen, modellen en dergelijke door ORCHIDS DIRECT EUROPE B.V. ter beschikking gesteld of door, namens of in

opdracht van ORCHIDS DIRECT EUROPE B.V. vervaardigd of anderszins verkregen of ontstaan in het kader van de overeenkomst, berusten bij ORCHIDS DIRECT EUROPE B.V. vanaf het ontstaan van deze rechten. Voor zover nodig draagt Leverancier hierbij alle eigendomsrechten onherroepelijk en kosteloos over aan ORCHIDS DIRECT EUROPE B.V., die deze aanvaardt. Voor zover hiervoor een formaliteit is vereist, zal Leverancier zijn volledige medewerking verlenen aan de totstandkoming van deze formaliteit. Het is Leverancier niet toegestaan om zonder uitdrukkelijke schriftelijke toestemming van ORCHIDS DIRECT EUROPE B.V. en/of voor andere doeleinden dan voor promotie en/of reclame en/of door ORCHIDS DIRECT EUROPE B.V. nader te bepalen doeleinden, gebruik te maken van enige intellectuele eigendomsrechten van ORCHIDS DIRECT EUROPE B.V..

- 11.2. ORCHIDS DIRECT EUROPE B.V. behoudt zich het recht voor om het gebruik van al zijn intellectuele eigendomsrechten te controleren en naar eigen inzicht direct stop te zetten. Leverancier verleent daaraan volledige medewerking.
- 11.3. Leverancier zal ORCHIDS DIRECT EUROPE B.V. direct op de hoogte stellen van elke inbreuk op of oneigenlijk gebruik van de aan ORCHIDS DIRECT EUROPE B.V. toekomende intellectuele eigendomsrechten.
- 11.4. Leverancier garandeert dat het gebruik, inclusief de doorverkoop van de aan ORCHIDS DIRECT EUROPE B.V. geleverde zaken geen inbreuk maakt op intellectuele eigendomsrechten van derden (waaronder meer – doch niet uitsluitend – kwekersrechten, patenten, octrooien, merkenrechten en modelrechten) en vrijwaart ORCHIDS DIRECT EUROPE B.V. voor vorderingen van derden wegens (vermeende) inbreuken ter zake en zal ORCHIDS DIRECT EUROPE B.V. alle als gevolg daarvan geleden schade, de kosten van juridische bijstand daaronder mede begrepen, vergoeden.

ARTIKEL 12: Opschorting en ontbinding

- 12.1. ORCHIDS DIRECT EUROPE B.V. is, zonder dat een nadere ingebrekestelling is vereist alsmede tot enige schadevergoeding gehouden te zijn, bevoegd de overeenkomst geheel of gedeeltelijk te ontbinden of de nakoming van zijn verplichtingen op te schorten indien:
 - a. Leverancier zijn verplichtingen uit de overeenkomst niet, niet tijdig of niet volledig nakomt;
 - b. ORCHIDS DIRECT EUROPE B.V. goede grond heeft om te vrezen dat Leverancier zijn verplichtingen niet, niet tijdig of niet volledig zal nakomen;
 - c. Leverancier failliet is gegaan, surseance van betaling aanvraagt of is toegelaten tot een schuldsanering;
 - d. beslag op zaken of vorderingen van Leverancier is gelegd;
 - e. Leverancier (vennootschap) wordt ontbonden;
 - f. Leverancier (natuurlijk persoon) onder curatele wordt gesteld of overlijdt;
 - g. ORCHIDS DIRECT EUROPE B.V. Leverancier bij het sluiten van de overeenkomst gevraagd heeft zekerheid te stellen voor de nakoming en deze zekerheid uitblijft dan wel onvoldoende is.
- 12.2. ORCHIDS DIRECT EUROPE B.V. heeft bij ontbinding in ieder geval het recht:
 - a. het reeds geleverde voor rekening en risico van Leverancier retour te zenden;
 - b. van Leverancier de extra uitgaven vergoed te krijgen, die ORCHIDS DIRECT EUROPE B.V. moet maken tot redelijke vervanging van de zaken die niet door ORCHIDS DIRECT EUROPE B.V. ontvangen of behouden zijn.
- 12.3. Leverancier is niet gerechtigd om zijn verplichtingen jegens ORCHIDS DIRECT EUROPE B.V. op te schorten en enig retentierecht uit te oefenen op zaken die eigendom van



ORCHIDS DIRECT EUROPE B.V. zijn of waarop ORCHIDS DIRECT EUROPE B.V. op een of andere wijze aanspraak heeft.

ARTIKEL 13: Privacy

- 13.1. De klantgegevens die ORCHIDS DIRECT EUROPE B.V. aan Leverancier verstrekt worden alleen in het kader van het vastgestelde doel van de contractuele verhouding tussen Partijen en alleen in de mate van het noodzakelijke – in het bijzonder: het oproepen, het bewaren, veranderen of overdragen – gebruikt.
- 13.2. De klantgegevens die ORCHIDS DIRECT EUROPE B.V. aan Leverancier verstrekt, zullen door Leverancier conform zijn Privacy Verklaring en de toepasselijke wet- en regelgeving worden opgeslagen en verwerkt.

ARTIKEL 14: Toepasselijk recht

- 14.1. Op elke overeenkomst tussen ORCHIDS DIRECT EUROPE B.V. en Leverancier is uitsluitend Nederlands recht van toepassing.
- 14.2. In geval van een geschil trachten de Partijen eerst het geschil in der minne op te lossen. Indien partijen hier niet in slagen, kan elk van de Partijen het geschil uitsluitend voorleggen aan een bevoegde rechter te Amsterdam, Nederland.