

## General Conditions for the Purchase of Goods and Services

### Article 1. Scope and definitions

- 1.1 These General Conditions of Purchase govern the purchase of Goods and/or Services by any company or Subsidiary belonging to the PlantLab Group of companies from its Suppliers (as defined hereinafter).
- 1.2 Unless determined otherwise by the context capitalized words and expressions in these General Terms and Conditions of Purchase shall have the following meaning:

**Acceptance:** approval by PlantLab in writing of the (partly) delivery of Goods and/or Services.

**Agreement:** these General Conditions of Purchase, together with the relevant Purchase Order issued by PlantLab, constituting the terms under which PlantLab purchases Goods and/or Services from Supplier.

**Equipment:** any equipment indicated in the Purchase Order covered by these General Conditions, or part of it.

**General Conditions of Purchase:** the present Plantlab General Conditions of Purchase.

**Goods:** both tangible and intangible goods, articles, products, Equipment, including software and Intellectual Property Rights, and related documentation and packaging, indicated in the Purchase Order and in the Technical Documentation where available, that are covered by these General Conditions of Purchase.

**Intellectual Property Rights:** patents, utility models, rights to Inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Software:** any and all computer programs and computer software (of whatever type and in whatever form or media) installed on or supplied with the Equipment at the time of its delivery and either necessary for its operation in the manner contemplated by PlantLab or otherwise referred to in the Purchase Order.

**Supplier:** the party that provides the Goods and/or Services, including through organisation of the necessary means and management at its own risk.

**PlantLab:** means the PlantLab entity that has concluded the Agreement;

**PlantLab Group:** means PlantLab Group B.V. and its Subsidiaries.

**Subsidiary:** any individual or (legal) entity that directly or indirectly, through one or more intermediaries, is under the control of PlantLab Group B.V. Within the context of these General Terms and Conditions "control" means the power to direct or cause the direction of the management and policies of a person or entity, whether through the direct or indirect ownership of more than 50% (in words: fifty per cent) of the nominal value of the issued share capital, or holdings of more

than 50% (in words: fifty per cent) of the right to vote at the general meeting of shareholders, or the power to appoint a majority of the managing directors, or by contract or otherwise.

**Purchase Order:** PlantLab's written instruction to supply the Goods and/or Services generated through PlantLab's purchase order system, incorporating these General Conditions of Purchase.

**Services:** one or more services indicated in the Purchase Order, covered by these General Conditions of Purchase.

**Technical Documentation:** each technical specification with which the Goods and/or Services must comply.

## **Article 2. Applicability**

- 2.1 These General Conditions of Purchase shall apply to any request made by PlantLab to the Supplier to submit an offer, to the offer to be submitted by the Supplier, to all Purchase Orders by PlantLab and to all Agreements concluded and to be concluded with the Supplier under which PlantLab acts as the purchaser, or potential purchaser of Goods and/or Services, as well as to all legal relationships arising from such Agreements.
- 2.2 Deviations from and/or additions to these General Conditions of Purchase shall only be valid if agreed between Parties in writing. Notifications, including commitments or (further) arrangement(s), sent by one party to the other that are relevant to the execution of the Agreement shall be binding for parties only if confirmed in writing by a duly authorized person.
- 2.3 The applicability of any general terms and conditions used by Supplier, regardless of their designation, is hereby expressly rejected.

## **Article 3. Effect of Purchase Order**

- 3.1 PlantLab shall only be bound by an order if it is issued on PlantLab's standard Purchase Order form.
- 3.2 The Purchase Order constitutes an offer by PlantLab to purchase the Goods and/or Services subject to these General Conditions of Purchase. Accordingly, any acceptance of the Purchase Order by the Supplier shall establish an Agreement for the sale and purchase of Goods and/or Services on these General Conditions of Purchase. Any counter-offer made by the Supplier to supply the Goods and/or Services on other conditions shall only be validly accepted if that acceptance is in writing and signed by a duly authorised representative of PlantLab.
- 3.3 The acknowledgement of the Purchase Order by the Supplier, or the Supplier's execution, commencement of work or commencement of delivery pursuant to the Purchase Order constitutes acceptance of the Purchase Order on these General Conditions of Purchase by the Supplier.

## **Article 4. Prices and payment conditions**

- 4.1 Unless otherwise agreed in writing by parties on establishment of the Agreement, all prices and tariffs shall be in euros and shall be fixed for the term of the Agreement.
- 4.2 Unless agreed otherwise in writing, prices shall include all costs in connection with the fulfilment of the obligations of Supplier, including but not confined to the costs of packing,

transport and insurance, and as the case may be any costs incurred for exchanging or converting foreign Prices stated in the Order are fixed. Moreover, the prices for all Goods and/or Services also include all preparatory and other work necessary to satisfy the requirements imposed by PlantLab. The Parties must jointly agree to any changes to those prices.

- 4.3 All prices shall be exclusive of value-added tax, but inclusive of any other taxes and duties, including but not confined to environmental levies and import and export duties.
- 4.4 Services shall be performed for the final net total price stated in the Agreement. Notwithstanding this provision, parties may agree in the Agreement that all or some of the work shall be carried out for hourly rates or other unit charges specified in the Agreement. Unless agreed otherwise in writing, such rates or charges shall include any travel and subsistence expenses and travelling time.
- 4.5 If parties have agreed that payment shall take place entirely or partly on the basis of rates, Supplier shall keep records of the rates payable, showing the components that make up the total amount payable by PlantLab. Supplier shall submit a copy of such records on a weekly basis within 5 days after each completed week.
- 4.6 Invoicing by the Supplier shall take place as described in the Agreement. Each invoice shall in any event specify the PlantLab order number as well as the relevant item number(s), volume(s) and description(s). In addition, the invoice shall meet all applicable legal requirements, including but not confined to specification of the VAT number of Supplier .
- 4.7 Supplier shall submit its invoice electronically to enable its electronic receipt and processing in accordance with the specifications established by PlantLab.
- 4.8 Payment of net invoiced amounts shall be made within 30 calendar days of receipt of an invoice, provided that the following conditions have been met:
  - i. PlantLab has accepted the Goods and/or Services in accordance with the provisions of article 10.
  - ii. PlantLab has received all relevant documentation drawn up by Supplier.
- 4.9 Payment by PlantLab shall in no way constitute a waiver of any rights. Payments made prior to Acceptance shall take place, at all times, under the condition precedent of Acceptance.
- 4.10 PlantLab shall have the right to offset amounts it is owed by Supplier at any time against amounts that PlantLab owes Supplier.

#### **Article 5. Delivery of Goods**

- 5.1 The Supplier shall deliver the Goods and/or Services on the date(s) specified in the Purchase Order or, if no such date is specified or otherwise agreed, within 28 days of the date of the Purchase Order. Time is of the essence as to the delivery of the Goods and/or Services under the Agreement and if the Supplier does not comply with its obligations in the preceding sentence, PlantLab may, without prejudice to any other rights or remedies that it may have:
  - (a) cancel the Agreement in whole or in part without incurring any liability to the Supplier;
  - (b) refuse to accept any subsequent delivery of items comprised in the Goods and/or Services which the Supplier attempts to make; and/or

- (c) purchase substitute items elsewhere.
- 5.2 Goods shall be properly packed and secured in such manner as to enable it to reach its destination in good condition. No charge shall be made for wrapping, packing, cartons, boxes, crating or containers unless specified in the Purchase Order, and PlantLab shall not be responsible for returning those materials.
- 5.3 Goods shall be delivered by the Supplier carriage free to the place of delivery specified in the Purchase Order, or as otherwise specified by PlantLab by means of advice notes quoting the PlantLab's order number. Goods shall be received at the place of delivery, subject to the PlantLab's inspection and approval. Goods which PlantLab rejects as not conforming with the Purchase Order shall be returned at the Supplier's risk and expense.
- 5.4 In the case Goods require installment at PlantLab's premises, unless PlantLab and the Supplier have agreed in writing additional conditions regarding preparation of or environmental requirements at the site at which the Goods are to be installed, the Supplier acknowledges and agrees that the Goods are suitable to be installed and used at the premises at which PlantLab intends to use them and that there are no additional conditions regarding site preparation or environmental requirements.
- 5.5. Unless PlantLab has agreed otherwise in writing, the Supplier shall deliver the exact specified quantities of items comprised in the Goods in accordance with the Purchase Order. Without affecting its other rights and remedies, PlantLab reserves the right to reject incomplete deliveries and to return excess quantities at the Supplier's risk and expense.

#### **Article 6. Acceptance of Goods and Non-conformity**

- 6.1 Delivery shall not constitute Acceptance.
- 6.2 Within a reasonable time after delivery, PlantLab shall (commission) inspect(ion)(of)the Goods, including checks and/or tests. Inspection testing of or payment for the Goods shall not constitute Acceptance, and shall not relieve the Supplier of its obligations under the Agreement.
- 6.3 Acceptance shall not occur before such time as PlantLab has accepted the Goods in writing, or, as the case may be, until the remaining issues that are the subject of provisional Acceptance have been resolved, as confirmed in writing by PlantLab.
- 6.4 In the case of partial deliveries, PlantLab shall perform only provisional inspections, and Acceptance shall not occur until the Agreement has been fully executed, provided always that the other conditions for Acceptance have been fulfilled.
- 6.5 If any Goods and/or Services are defective, latent or otherwise do not conform to the requirements of the Purchase Order and/or the Agreement, PlantLab shall notify Supplier and may, without prejudice to any other right or remedy available to it under the Agreement or at law, at its sole discretion:
  - a. require performance by Supplier;
  - b. require delivery of substitute Goods;
  - c. require Supplier to remedy the lack of conformity by repair;
  - d. declare the contract void; or

- e. reduce the price in the same proportion as the value of the Goods and/or Services actually delivered, even if that results in a full refund of the price paid to the Supplier.
- 6.6. Supplier shall bear all cost of repair, replacement and transportation of the nonconforming Goods, and shall reimburse PlantLab in respect of all costs and expenses (including, without limitation, inspection, handling and storage costs) reasonably incurred by PlantLab in connection therewith.
- 6.7. Risk in relation to the nonconforming Goods shall pass to Supplier upon the date of notification thereof.

#### **Article 7. Performance according to the Technical Documentation**

- 8.1 Where applicable, the Supplier shall be obliged to perform the Purchase Order in strict accordance with the Technical Documentation and with due observance of the usual requirements of proper and good workmanship.
- 8.2 PlantLab shall be entitled to amend the Technical Documentation. Should this amendment result in a substantial change in the costs or the time necessary for the performance of the Order, then the price or date of delivery or supply of the Purchaser Order will be reasonably adjusted accordingly.
- 8.3 The Supplier shall inform PlantLab within 10 working days of receiving written notification of the amendment if the amendment will result in a substantial change in the costs or the time necessary for the performance of the Purchase Order, in default of which the Supplier shall forfeit his/her/its right to adjust the Purchase Order. In anticipation of an Agreement between the Parties concerning the possible amendment of the Purchase Order, the Supplier shall perform the Purchase Order in accordance with the amendment proposed by PlantLab.

#### **Article 9. Quality Guarantee**

- 9.1 The Supplier shall warrant the proper quality of the Goods delivered and/or Services performed by he/she/it. In particular, the Supplier shall in any case warrant that:
  - a. the Goods and/or Services are suitable for the purpose for which they are intended;
  - b. the Goods are new, of good quality and free of defects in design, processing, fabrication, construction and measurement, as well as free of defects in the parts and/or materials used;
  - c. the Goods and/or Services have been manufactured and/or performed in accordance with the most recent state of the art;
  - d. the Goods and/or Services conform completely with all performance and other specifications stated in the Technical Documentation and the other provisions of the Agreement;
  - e. the Goods and/or Services are fully in compliance with any and all applicable laws and regulations;
  - f. the Goods and/or Services will conform to all samples, drawings, descriptions and specifications provided to PlantLab by the Supplier, unless otherwise agreed;
  - g. the Goods and/or Services will conform with all standards referred to on any part of the Goods and/or Services and in any product packaging and/or documents in, with or in relation to which Goods and/or Services are supplied;
  - h. Equipment will be free from all defects in materials, workmanship and installation for a period of 12 months from the date of delivery.

## **Article 10. Risk and property of Goods**

- 10.1 Goods shall be at the risk of the Supplier until delivery to PlantLab at the place of delivery specified in the Agreement, or as otherwise specified by PlantLab. The Supplier shall off-load the Goods at its own risk as directed by PlantLab. In the event the Goods are to be installed by the Supplier or under the Supplier's responsibility, the Goods should be considered to be delivered when the installation is complete.
- 10.2 Ownership of the Goods shall pass to PlantLab on completion of delivery (including off-loading) in accordance with the Agreement, except that if the Goods are paid for before delivery ownership shall pass to PlantLab once payment has been made. The passing of ownership in the Goods is without prejudice to any right of rejection to which PlantLab may be entitled under the Agreement or otherwise.

## **Article 11. Ownership and Intellectual Property**

- 11.1. All machinery, tools, drawings, specifications, raw materials and any other property or materials furnished to Supplier by or for PlantLab, or paid for by PlantLab, for use in the performance of the Agreement, shall be and remain the sole exclusive property of PlantLab and shall not be furnished to any third party without PlantLabs' prior written consent, and all information with respect thereto shall be confidential and proprietary information of PlantLab.
- 11.2. Supplier represents and warrants to PlantLab that the Goods and Services do not and shall not, alone or in any combination, infringe or violate any third party (including Supplier's employees and subcontractors) Intellectual Property Rights.
- 11.3. The purchase of the Goods and/or Services shall confer on PlantLab an irrevocable, world-wide, royalty-free and fully paid up, non-exclusive and perpetual license under all Intellectual Property Rights owned or controlled, directly or indirectly, by Supplier to use, make, have made, build-in, have built-in, market, sell, lease, license, distribute and/or otherwise dispose of the Goods and/or Services, including but not limited to machinery, tools, drawings, designs, software, demos, moulds, specifications or pieces.
- 11.5. Supplier shall not use any trademark, trade name or other indication in relation to the Goods or Services alone or in any combination without PlantLab's prior written approval and any use of any trademark, trade name or other indication as authorized by PlantLab shall be strictly in accordance with the instructions of and for the purposes specified by PlantLab.
- 11.6. Supplier shall not, without PlantLab's prior written consent, publicly make any reference to PlantLab, whether in press releases, advertisements, marketing publications or otherwise.

## **Article 12. Indemnification**

- 12.1. The Supplier shall indemnify and hold PlantLab harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, PlantLab as a result or in connection with:
- a. any alleged or actual infringement, whether or not under Dutch law, of any third party's Intellectual Property Rights or other rights arising out of the use, manufacture or supply of the Goods and/or Services; or

- b. defective workmanship, quality or materials in or in relation to the Goods and/or Services; or
  - c. any claim made against PlantLab in respect of any liability, loss, damage, injury, cost or expense sustained by PlantLab's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods and/or Services as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the Agreement by the Supplier howsoever arising.
- 12.2 If any Goods or Services alone or in any combination, supplied under the Agreement are held to constitute an infringement or if their use is enjoined, Supplier shall, as directed by PlantLab, but at its own expense: either
- a. procure for PlantLab the right to continue using the Goods and/or Services alone or in any combination; or
  - b. replace or modify the Goods and/or Services alone or in any combination with a functional, non- infringing equivalent.
- 12.3. If Supplier is unable either to procure for PlantLab the right to continue to use the Goods and/or Services alone or in any combination or to replace or modify the Goods and/or Services alone or in any combination in accordance with the above, PlantLab may terminate the Agreement and upon such termination, Supplier shall reimburse to PlantLab the price paid, without prejudice to Supplier's obligation to indemnify PlantLab as set forth herein.

#### **Article 13. Confidentiality and PlantLab's property**

- 13.1 The Supplier shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by PlantLab or its agents, and any other confidential information concerning PlantLab's business or its products which the Supplier may obtain. The Supplier shall restrict disclosure of such confidential material to such of its employees as need to know the same for the purpose of discharging the Supplier's obligations to PlantLab and shall ensure that those employees are subject to obligations of confidentiality corresponding to those which bind the Supplier.
- 13.2 All materials, equipment, tools, copyright, rights in designs and any other Intellectual Property Rights in all drawings, specifications and data supplied by PlantLab to the Supplier shall at all times be and remain the exclusive property of PlantLab, and shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned to PlantLab, and shall not be disposed or used other than in accordance with PlantLab's written instructions or authorisation. The Supplier shall return all copies of any such material to PlantLab immediately on PlantLab's first written request.
- 13.3 This Article 13 shall survive the termination of the Agreement, however arising.

#### **Article 14. Limitation of liability**

- 14.1 Nothing excludes either party's liability for death or personal injury caused by that party's negligence or for fraud or fraudulent misrepresentation.
- 14.2 Subject to condition 14.2 and condition 14.4:

- (a) neither party shall in any circumstances be liable, whether in tort (including without limitation for [negligence or] breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and
- (b) each party's total liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to 200 % of the price paid or payable for the Goods and/or Services.

14.4 The limitations of liability in condition 14.3(b) shall not apply to liability for:

- a. or under any indemnity in these General Conditions of Purchase (whether in respect of performance of the indemnity or its breach), including the indemnities under Article 12;
- b. any breach of any regulatory requirement by the Supplier which directly or indirectly results in the imposition of any fine or sanction on PlantLab or PlantLab otherwise incurring any liability; and
- c. any breach by the Supplier of Article 13 (Confidentiality and PlantLab's property)

#### **Article 15. Termination**

15.1 Without prejudice to any other rights or remedies to which PlantLab may be entitled, PlantLab may suspend the performance of its obligations under the Agreement in whole or in part or terminate the Agreement in whole or in part by means of written notice to Supplier without liability to the Supplier in the event that:

- d. the ability of PlantLab to accept delivery of the Goods and/or Services is delayed, hindered or prevented by circumstances beyond its reasonable control;
- e. the Supplier commits a material breach of any term of these General Conditions of Purchase and/or the Agreement and (if such breach is remediable) fails to remedy that breach within a period of fourteen (14) days after being notified to do so;
- f. The Supplier repeatedly breaches any of the terms of these General Terms and Conditions and/or the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these General Conditions of Purchase and/or the Agreement;
- g. Supplier files a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding;
- h. Supplier becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding;
- i. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier;
- j. the Supplier suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

15.2 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination of this agreement shall remain in full force and effect.

15.3 Termination of this agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of these General Terms and Conditions and/or the Agreement which existed at or before the date of termination.

#### **Article 16. Personal Data**

16.1 In the event that Supplier processes information in any form relating to an identified or identifiable individual ("Personal Data"), including sensitive data, of individuals whom personal data is provided to Supplier by (or at the direction of) PlantLab such as/i.e., consumers and employees, Supplier undertakes and warrants that it and its personnel involved with the performance of this Agreement shall process all Personal Data in accordance with all laws and regulations applicable to the Processing, protection, confidentiality or security of Personal Data, and all further instructions provided by PlantLab with regard to the Processing.

#### **Article 17. Force majeure**

17.1 Any circumstance which is unforeseeable or which, being foreseeable, is unavoidable, and which hinders extraordinarily or impedes any of the parties to fulfill its obligations shall be deemed a force majeure event. For purposes of these General Conditions of Purchase, the following shall not be considered force majeure events: (i) strikes, production stops and labor conflicts which exclusively affect the employees or the personnel engaged by Supplier; (ii) the lack of means of transport or materials; (iii) delays attributable to Supplier's subcontractors (regardless if Supplier declares a force majeure); (iv) change of law; or (v) those circumstances which Supplier does not convey to PlantLab within five (5) calendar days following their commencement. The party claiming a force majeure event shall notify the other party of such event within five (5) calendar days of its commencement. Party claiming the force majeure event is obligated to take all necessary measures to mitigate the force majeure event. Such notice shall describe the claimed force majeure event, its estimated duration, its estimated impact on the notifying party's ability to perform under the Agreement, and the measures the notifying party proposes to adopt to resolve or to mitigate the adverse consequences arising from the force majeure event.

#### **Article 18 Subcontracting and assignment**

18.1 Supplier shall not subcontract, transfer or assign any of its rights and obligations under the Agreement to any third party or any of its affiliates without the prior written consent of Buyer. In case Supplier is permitted to subcontract any of its obligations hereunder, it shall remain fully responsible and liable for the proper performance of its obligations under any Agreement. PlantLab may assign any Agreement to any of PlantLab Subsidiaries or to any third party in connection with any merger, acquisition, re-structuring, disposal, change of control, or sale or other transaction in relation to all or substantially all or part of PlantLab's business and/or assets upon notice to Supplier.

#### **Article 19. Variation**

19.1 No variation of these General Conditions of Purchase shall be effective unless it is in writing and signed by the Parties (or their authorized representatives).

**Article 20. Waiver**

20.1 No failure or delay by a party to exercise any right or remedy provided under these General Conditions of Purchase or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of that right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

**Article 21. Rights and remedies**

21.1 Except as expressly provided in this agreement, the rights and remedies provided under these General Terms and Conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

**Article 22. Severance**

22.1 If any provision or part-provision of these General Conditions of Purchase is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these General Conditions of Purchase.

22.2 If any provision or part-provision of these General Conditions of Purchase is deemed deleted under condition 22.1 the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision

**Article 23. Governing law**

23.1 The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of the Netherlands.

23.2 All disputes (including issues that may be considered disputes by only one of the parties) that may arise in relation to the Agreement or any additional Agreements ensuing therefrom, shall be submitted for litigation exclusively to the competent court in 's Hertogenbosch, the Netherlands

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