

## GENERAL COMMERCIAL TERMS AND CONDITIONS

### I. General provisions.

#### § 1.

1. These General Commercial Terms and Conditions (hereinafter referred to as "GTCs") set out the principles of sales, deliveries, contracts, offers and agreements conducted by the Seller and form an integral part of the contracts concluded with the Purchasers. They shall apply as soon as the Seller confirms the Purchaser's order or issues an invoice, to which the Seller attaches the content of the GTCs.
2. Any amendments to these terms and conditions shall be made in writing in order to be valid.

### II. Definitions

#### § 2.

The following terms used in the GTCs shall be understood to mean:

"**Seller**" - the entities indicated in the Order Confirmation as a party to the transaction, acting jointly or separately:

- a. **Anna Cieplucha-Kowalska Nursery Farm;**
- b. **Cieplucha Nursery Farm - Krzysztof Kowalski;**
- c. **Jan Cieplucha Nursery Farm;**
- d. **Krzysztof Kowalski Horticulture;**

"**Purchaser**" - a natural person, an organisational unit without legal personality which the Act grants legal capacity or a legal person who has concluded a Contract with the Seller or has placed an Order with the Seller;

"**Order**" - a document originating from the Purchaser in written, electronic, telephonic or documentary form;

"**Order Confirmation**" - a document originating from the Seller in written or electronic form;

"**Contract**" - contract of sale, delivery, contracting or any other contract concluded by the Seller with the Purchaser in accordance with the provisions of the Civil Code;

"**Price List**" - a list of goods published on the Seller's website or displayed at the Seller's premises, together with their unit price,

### III. Offers and conclusion of Contracts

#### § 3.

1. The Seller's offer in the form of content presented on the Seller's websites, as well as printed materials of informative character regarding the Seller's business activity, in particular announcements, advertisements, price lists and other information about the Seller's enterprise are not an offer within the meaning of Articles 66 and 66<sup>1</sup> of the Civil Code. This content may only relate to goods currently offered by the Seller.
2. The offer is valid while stocks last.

### IV. Conditions for placing orders

#### § 4.

1. In order to conclude the Contract, the Purchaser shall submit an Order, upon receipt of which the Seller shall confirm the Order. The Contract is concluded on the terms and conditions described in the GTC when the Seller sends the Order Confirmation to the Purchaser. Any objections to the contents sent in the Order Confirmation shall be notified by the Purchaser without delay.
2. The sending of the Order or other arrangements by the Purchaser in written electronic or documentary form (e.g. e-mail, letter, scan) shall be deemed to be knowledge and acceptance of the Seller's GTCs by the Purchaser and shall be deemed binding by the Seller.
3. In the Order, the Purchaser is obliged to indicate at least:
  - a. the type and quantity of goods ordered,
  - b. the Purchaser's e-mail address for sending the Order Confirmation, unless it is to be delivered to the Purchaser at the Seller's retail outlet,
  - c. the method of collection or delivery of the goods ordered,
  - d. the method of payment of the price.
4. The Order Confirmation shall contain at least:
  - a. the quantity and type of goods ordered,
  - b. the unit prices of the goods valid on the date of the Order Confirmation,
  - c. the total value of the Order,
  - d. the approximate time of collection or delivery of the goods,
  - e. information on the amount and date of payment of the deposit (if provided for),
  - f. information on the deadline for payment of the value of the Order.
5. The GTC is posted on the Seller's website. The Seller shall provide the Purchaser with these GTCs together with the Order Confirmation and the sales document.

6. For the avoidance of doubt, it is stipulated that in the event of a discrepancy between the wording of the Order and the Order Confirmation, the indications in the Order Confirmation shall be binding on the parties.
7. The parties expressly exclude the application of any general terms and conditions or model contracts used in the trade by the Purchaser.
8. Any customer placing orders for a total amount exceeding:
  - PLN 30,000.00 for nursery stock,
  - PLN 10 000,00 for blueberriesundertakes to pay a deposit of 20% of the value of the goods ordered. The deposit shall be payable in cash or to the bank account specified by the Seller on the Order form within 7 working days of effective delivery of the Order Confirmation.
9. Failure to pay the Deposit by the aforementioned deadline shall result in cancellation of the Sales Contract and no guarantee of availability of the ordered material.
10. The Deposit paid shall be set off against the sale price. In the event of cancellation of the Order or non-performance of the Contract by the Purchaser (non-payment for the ordered goods), the Deposit is non-refundable (art. 394 of the Civil Code), unless the Seller has agreed to the Purchaser's cancellation of the ordered goods.
11. Upon duly motivated request, the deadline for payment of the deposit may be extended by the Seller. In such case, the effect referred to in § 4.9 shall not take place and the validity of the offer included in the Order Confirmation shall be extended accordingly until the expiry of the additional period for payment of the deposit.
12. In the event of non-performance of the Contract by one of the parties, the other party may, without setting a grace period, withdraw from the Contract and retain the Deposit received, or, if it has given it itself, may demand its return in the same amount without interest.
13. The Seller has the right to withdraw from the Contract without being obliged to state a reason (art. 395 § 1 of the Civil Code). The declaration of withdrawal from the Contract shall be submitted to the Purchaser in written or documentary form under pain of nullity. In such a case, the Contract shall be deemed not to have been concluded and the Seller shall return to the Purchaser the Deposit paid by the Purchaser. If the Seller exercises the aforementioned right, the obligation to pay twice the amount of the deposit is excluded.

#### § 5.

1. Once the Contract has been concluded, any change to the quantity or type of goods ordered shall require the Seller's consent in writing or by e-mail under pain of nullity.
2. A change in the quantity or type of goods ordered without the required consent of the Seller shall not have the effect of an amendment to the contract, i.e. the Purchaser is obliged to take delivery of the entire order and pay the price.
3. In the event that the Seller agrees to the change referred to in paragraph 1, an amendment to the Contract shall take place. The deposit paid shall be credited in full towards the price of the changed subject of the Contract and shall not be reduced accordingly.
4. If the goods of a given type are out of stock and consequently unavailable, the Seller shall replace the missing types of goods with others of similar parameters in agreement with the Purchaser. Agreement in this respect shall be made in documentary form (e-mail, text message).
5. Failure to collect the goods by the agreed date and non-payment shall entitle the Seller, at his discretion, to demand payment and collection of the goods by the Purchaser or to exercise the rights provided for in the GTC, i.e. to perform the contract.

### V. Prices

#### § 6.

1. The prices for the goods sold are shown in the Price List.
2. The prices of the goods in the Price List and the Order Confirmation are net prices (excluding VAT).
3. The Seller may carry out and cancel promotional campaigns.
4. The Seller reserves the right to change the Price List at any time.
5. The prices of the goods stated in the Order Confirmation are valid as of the date of the Order Confirmation. The Seller shall be entitled to declare to the Purchaser a change in the price specified in the Order Confirmation by the monthly price index of goods and services, i.e. mdm (month of Order Confirmation = 100) announced by the President of the Central Statistical Office. The revised price is effective from the time of the Seller's

declaration. The Seller shall be entitled to make the declaration described above before the deadline for payment by the Purchaser.

6. The prices listed in the Price List do not include the costs of delivery in the case of sales outside the Republic of Poland. The Purchaser is informed of these costs in the Order Confirmation.
7. The Price List is valid until a new Price List is issued.
8. Wholesale prices apply when adult nursery stock is purchased for a minimum of PLN 1,000.00 and a minimum of 5 units of one variety.
9. For young material, a minimum of 120 units per variety (M40 multiplat). The minimum order quantity for plants in P9 and C1 containers is 500 plants per variety for bulk purchase. For purchases of 100-500 units, the retail price applies. Orders of less than 100 plants in P9 and C1 containers will not be fulfilled.
10. Purchasers issuing VAT RR invoices receive a proof of delivery. The prices stated in the delivery note are net prices, to which the Purchaser shall add VAT (in accordance with the Value Added Tax Act of 11 March 2004).

#### **VI. Discounts**

##### **§ 7.**

1. When purchasing adult nursery stock, excluding plants in C90 containers and larger, the Purchaser is entitled to a discount, calculated on the basis of the total value of goods purchased from the Seller by the given Purchaser in the current year or the previous year in relation to the date of the Contract, depending on which is higher. The value of the current year's and previous year's purchases are not added together for the purpose of granting a discount.
2. The amount of the discount is:  
**5%** - with a total value of the purchased goods from the current or previous year in the range of **PLN 2,000.00 - 5,000.00**;  
**10%** - with the total value of goods purchased from the current or previous year in the range of **more than PLN 5,000.00 to PLN 10,000**;  
**15%** - with the total value of goods purchased from the current or previous year in **excess of PLN 10,000.00**.
3. In addition, the Purchaser entitled to the discounts referred to in paragraph 2 is eligible for a discount in the amount of:  
**2%** - for payment in cash or prepayment by bank transfer

#### **VII. Method of payment**

##### **§ 8.**

1. For sales within Poland, the following forms of payment apply:
  - a. in cash upon receipt of the goods,
  - b. by bank transfer to the Seller's account within 30 days from the date of the bill or invoice, up to the amount of the trade credit granted by the Seller. Trade credit is granted at the Seller's discretion, only to Purchasers who have not been in arrears with their payments for more than 30 days in the last 3 years (so-called creditworthiness),
  - c. Purchasers who are subject to collection are obliged to pay for the ordered goods only in cash or by prepayment.
2. In the case of the first Contract concluded with the Purchaser, payment in cash, made at the latest upon receipt of the goods, or prepayment by transfer of 100% of the value of the ordered goods to the Seller's bank account shall apply, unless the Seller has agreed to defer payment.
3. In the case of sales outside of the Republic of Poland, payment of the price should be made in full prior to the execution of the order, by bank transfer to the Seller's account.
4. The Purchaser agrees that the Seller may use electronic invoices in settlements within the meaning of the Act of 11 March 2004 on Value Added Tax.
5. In the event of late payment, the Seller shall be entitled to charge statutory interest for late payment.
6. Failure to comply with the terms of payment or the occurrence of circumstances that cast doubt on the solvency and reliability of the Purchaser shall result in the immediate maturity of all amounts due. In this case, the Seller may withdraw from the performance of contracts not yet fulfilled.
7. Purchasers wishing to obtain a delayed payment shall submit the following documents for inspection:
  - identity card,
  - a current extract from the register of economic activities (if they carry out activities on the basis of an entry in the register of economic activities,
  - a document showing the current address details of the Purchaser.
8. Purchasers conducting business in the form of a commercial company, together with the application for deferment of payment, present to the Seller for inspection a copy of the Register of Entrepreneurs of the National Court Register, Tax Identification Number (NIP), Business Identification

Number (REGON), and in the event that the entry in the register is not up-to-date, documents containing up-to-date data.

#### **VIII. Collection of goods and delivery**

##### **§ 9.**

1. Delivery shall be deemed to have taken place when the goods leave the Seller's premises or are loaded onto the Purchaser's means of transport or, in the case of delivery by means of transport belonging to the Seller, at the time of unloading.
2. The Purchaser shall collect the goods himself or use the transport offered by the Seller.
3. Once the goods have been loaded, the risk of damage to or loss of the goods shall pass to the Purchaser.
4. Contractually agreed delivery dates are approximate.
5. In the event of an order for goods with delivery, the quantity of which does not result in full occupancy of the delivery vehicle, the Seller shall combine orders from different Purchasers and send them together when full occupancy of the delivery vehicle is reached, which may result in a delay in delivery.
6. Transport insurance is only taken out at the express request of the Purchaser and at the Purchaser's expense.
7. The Purchaser is obliged to check the conformity of the goods with the order immediately upon receipt. He is obliged to check in particular: the condition of the consignment and the quality, quantity and assortment of the delivered goods, and to draw up a product damage report upon receipt of the goods to the carrier, and immediately (i.e. within 7 days at the latest) notify the Seller of any objections in this respect. Failure to lodge objections within this period shall be tantamount with acceptance of the goods without reservation.
8. Each acceptance of goods must be signed for by the Purchaser. If the Purchaser does not collect the goods personally from the Seller, he must provide details and authorise in writing or in documentary form (e.g. by e-mail) a person/company to collect the goods on his behalf.
9. If the transport of the goods is organised by the Purchaser, the Purchaser must send a forwarding authorisation/order by e-mail. The authorisation must include the details of the forwarding company, the name of the driver or other authorised person collecting the goods, the registration number of the vehicle and trailer, the date of loading, the place and date of unloading of the goods.

#### **IX. Reservation of title**

##### **§ 10.**

1. The Seller reserves ownership of the object of sale until the Purchaser has paid the price.
2. From the moment the goods are handed over, the Purchaser is at risk of losing or damaging the object of sale.
3. The Seller does not lose ownership of the reserved goods by the fact that the Purchaser will heel or plant the delivered plants (goods) on his own or a third party's property after the sale. The reserved goods shall be stored, heeled or planted separately from other plants and marked in such a way that they are recognisable as coming from the Seller.
4. The Purchaser is obliged to take care of the reserved goods free of charge. These include, in particular, correct storage, planting, fertilisation and irrigation.
5. If the Purchaser sells the object of sale reserved in paragraph 1 after processing, combining or mixing it with other goods not belonging to the Seller, the Seller shall be entitled to a share in the co-ownership of the new item in the ratio of the value of the reserved goods to the remaining goods processed at the time of processing, combining or mixing (Article 193 § 1 of the Civil Code).
6. If the price is not paid within the agreed period, the Seller shall have the right to demand immediate release of the object of sale.
7. If the object of sale is taken away from the Purchaser (due to non-payment of the price), the Seller may claim appropriate remuneration for the reduction in value or damage.

#### **X. Performance of the Contract**

##### **§ 11.**

1. If the Purchaser who has paid the price has not taken delivery of the goods by the agreed date, the Seller may sell the goods ordered by the Purchaser, but shall first set an additional time limit for the Purchaser to take delivery, unless setting a time limit is not possible or the goods are in danger of deterioration or would otherwise be at risk of damage. The Seller is obliged to immediately notify the Purchaser of the sale (Art. 551 § 2 of the Civil Code).
2. In the event of the Purchaser's delay in payment or the Purchaser's delay in accepting the subject matter of the Contract, the Seller shall be entitled to withdraw from the Contract provided that a prior request for payment

- or acceptance of the subject matter of the Contract has been issued, reserving at least 3 days for the fulfilment of the obligation. In the event that a declaration of withdrawal is made in accordance with this paragraph, the Seller shall retain the deposit paid by the Purchaser, which shall not limit the Seller's right to claim damages on general terms.
3. The Purchaser is obliged to pay compensation for loading costs in the amount of 5% of the order value, if he has made a declaration of withdrawal from the contract after the Seller has loaded the ordered goods and the amount of the deposit paid has not covered the loading costs.
  4. The Purchaser who has ordered goods with delivery, in case he has made a declaration of withdrawal from the contract, after the Seller has delivered the ordered goods, shall be obliged to pay compensation for the loading costs referred to in para. 3 and compensation for the costs of delivery of the goods to the Purchaser in the amount of 5% of the order value.
  5. The Purchaser shall be obliged to pay compensation for the lack of use of the storage space by the Seller in a situation where the goods have not been collected despite the agreed time limit for the collection of the ordered goods. A contractual penalty shall be charged after the expiry of 7 days from the agreed deadline for acceptance of the order in the amount of PLN 3.00 per CC trolley or box pallet for each day of delay in acceptance of the order.

## **XI. Models and dimensions**

### **§ 12.**

1. Merchandise models show average properties. The dimensions of the goods given are approximate. Deviations from the presented models are permissible.

## **XII. Guarantee, liability and complaints**

### **§ 13.**

1. The Seller provides a quality guarantee, i.e. he is responsible for the health and viability of the plants at the time of delivery.
2. The Seller's liability towards the Purchaser to the fullest extent permitted by mandatory legal provisions is excluded with regard to:
  - a. any defects or damage resulting, however indirect, from the manner in which the plants have been cultivated or cared for after delivery (e.g. poorly chosen location, inadequate watering, poor choice of substrate), manifesting itself in particular in the failure of the plant to take root, deterioration of its growth level or fruiting;
  - b. the consequences of using plant protection products and herbicides;
  - c. the lost profits of the Purchaser;
  - d. damage resulting, even indirectly, from modifications, mutations or other genetic changes in the plants, which may occur spontaneously, independently of the Seller's actions and are not the Seller's fault;
  - e. damage caused by adverse weather conditions such as frost, drought, hail, flooding and others.
3. The Seller does not guarantee the yield level of fruiting plants, as it is affected by factors beyond the Seller's control.
4. The Seller is not responsible for the occurrence of diseases, pests or other pathogens at the Purchaser.
5. The Seller's liability towards the Purchaser shall be limited solely to damage caused by the Seller through intentional fault and shall in each case be limited to the price of the Contract subject to which the Purchaser's claim is related.
6. The Seller is relieved of liability if the Purchaser was aware of the defect at the time of delivery, as well as if the Purchaser discarded or disposed of the goods.
7. As soon as the goods are resold by the Purchaser, the Purchaser loses the right to make a claim against the Seller and the Seller is released from liability for the sold goods. The lodging of a complaint does not invalidate acceptance or the obligation to pay for the purchased goods.
8. The Seller's warranty liability is excluded. This provision shall not apply if the Customer is a Consumer.

### **§14.**

1. The Seller shall not be liable for non-performance or undue performance of the Contract caused by an event constituting force majeure, understood as an external condition beyond the control of the Parties. The Parties consider force majeure to be, in particular:
  - a. natural disasters and other acts of God, including but not limited to: drought, flood, fire, earthquake, extreme cold or heat, hail, heavy rain or snow, storm, tornado, landslide;
  - b. disruption of collective life resulting from hostilities, internal disturbances or strikes,
  - c. occurrence of an epidemic;
  - d. acts of state authority that make it highly difficult or impossible to carry out commercial activities, such as the introduction of a state of

epidemics or a state of epidemic emergency, a state of war, a state of emergency.

2. If, as a result of the force majeure referred to in section 1, the performance of the Contract becomes impossible or significantly hindered, the Seller shall be entitled to terminate the Contract within 60 days of the occurrence of the circumstance preventing or hindering the performance of the Contract, which shall not entail any claims for damages on the part of the Purchaser. In such a situation, the Purchaser shall be refunded the deposit actually paid.

### **§ 15.**

1. Any defects in the goods sold must be claimed immediately, but no later than 7 days after delivery. Notice of defects must be given to the Seller in writing, enclosing photo documentation.
2. Plants may have natural discolouration / browning not exceeding 10% of the leaf area, which is not a disease symptom but the natural physiological appearance of healthy plants. On the underside of the leaves, there may be natural suberization, which is a physiological feature, especially present on old leaves. Plants with such characteristics are considered to be full-fledged.
3. Healthy plants are plants that are free of diseases and pests that are subject to compulsory control in the EU.
4. If a complaint is accepted by the Seller, the Purchaser has the right, at his/her own choice, to demand the replacement of the item with a defect-free item or another item at the same price or, if this demand cannot be met, a refund of the price paid.
5. When exercising the rights of complaint, the Purchaser should deliver the item to the Seller's registered office. If the Seller accepts the complaint, he will reimburse the Purchaser for the shipping costs.
6. It is not permissible for the Purchaser to accept the goods with "reservations".
7. Quantitative acceptance of nursery material involves the Buyer verifying whether the delivery contains all the ordered plants in accordance with the sales document (invoice, receipt, specification, etc.). Quantitative collection of plants is carried out at the moment of delivery in the presence of the driver. In case of discrepancies, You should immediately report it to the driver, who will write out a Complaint Protocol. Quantity discrepancies reported after delivery will not be considered.

## **XIII. Final provisions**

### **§ 16.**

1. The law applicable to these GTCs and the concluded Agreements shall be the law of Poland.
2. The place of performance is Konstaktyńów Łódzki or Rzesznikowo, municipality of Rymań.
3. In the case of translation, the Polish version is binding in any disputes.
4. The precedence of the Polish language version also applies to the drafting of agreements, contracts and orders, unless the parties agree otherwise.

### **§ 17.**

Should any provision of the Contract or the GTCs prove to be invalid, the remaining provisions shall remain in force. The Parties in such a case undertake to immediately replace the invalid provision with a valid provision that comes closest to the economic purpose of the provision declared invalid.

### **§ 18.**

The Parties shall endeavour to resolve any disputes that arise amicably. In the event of disagreement, the competent court for disputes covered by the GTCs shall be the court having jurisdiction over the Seller's registered office.

### **§ 19.**

The GTCs are effective as of 04.04.2024.