

Flowering Plants Limited

Conditions of Contract



Unless expressly agreed otherwise in writing, any contract for the sale of goods by the Company shall be subject to these Conditions. Any general conditions of order or other terms of business offered on behalf of the Customer shall if inconsistent with these Conditions be deemed to have been rejected unless expressly accepted by the Company in writing. No servant or agent of the Company has authority to vary or waive any of these Conditions, except a Director doing so in writing.

1. Description

Descriptions shown in brochures, advertisements and by way of samples are correct at the time of supplier going to press (errors and omissions excepted) but are subject to alteration without notice.

2. Workmanship and Materials

- a. The Company undertakes to supply materials of sound quality, and where applicable, to erect the same in a workmanlike manner in accordance with the specification in the quotation issued by the Company, and in accordance with these conditions of Contract.
- b. The Company reserves the right to incorporate minor variations from time to time without prior notification.
- c. The Company cannot accept liability for surface crazing, slight distortions or slight deviations in measurements, so long as these do not materially detract from the purpose for which the works are intended.

3. Warranty and Remedy for Defects

- a. The Customer, if dissatisfied with the quality of materials or workmanship forming part of the contract, shall, within 12 months from the date of the Company's final invoice, give written notice to the Company's Head Office. Upon receipt of such notification, the Company undertakes to inspect the works, and to make good, without charge, any defects due to faulty materials or workmanship other than those defects due to fair wear and tear.
- b. The Company's liability for defective materials workmanship shall be exclusively limited to the undertaking in 3a above, and without derogation from such exclusion the Company shall be under no liability howsoever arising, whether by the negligence of the Company or otherwise in respect of:
 - i. Defects of which the Purchaser did not give written notice in accordance with these conditions.
 - ii. Consequential loss or damage of any.

4. Time

- a. Delivery dates given by the Company at any time are provisional unless expressed to be firm.
- b. The Company will use its best endeavours to comply with delivery dates but the Company shall not be liable for any delay howsoever arising, whether by the negligence of the Company, or otherwise.

5. Errors & Omissions

All prices are given subject to errors and omissions and if such errors or omissions are revealed before commencement of work on site under the contract the Company may cancel the contract without liability.

6. Price

- a. No tender, quotation or other offer by the Company shall remain open for acceptance beyond a period of thirty days from the despatch or other communication thereof to the Customer.
- b. Quotations do not include VAT. If VAT is payable it shall be added to the price at the appropriate rate.
- c. Prices quoted are based on current rates, and the Company reserves the right to increase the price using the NEDO price adjustment formula, work category indices, series II (or the edition current at the time of such increase).
- d. The Company reserves the right to pass on changes in costs in conditions of Force Majeure. Force Majeure includes any war, strike, lockout or other labour dispute, fire flood, drought, act of God or any other cause beyond our control which renders due performance of the contract impossible.

7. Cancellations

Orders may be cancelled only with our written agreement, but orders for goods made to special order cannot be cancelled.

8. Payment

- a. All quotations are strictly net, unless otherwise agreed in writing by the Company.
- b. The Company may, at its discretion, render invoices at intervals as the work proceeds for the value of works undertaken at its factory and on site for materials supplied up to the date of invoice and for interest on overdue invoices as provided in 8d below.
- c. The Purchaser shall pay the full amount of such invoices, without retention, discount, set off or other deduction within 30 days of the date of invoice and shall not be entitled to defer payment for any reason whatsoever.
- d. The Company reserves the right to change, and the Purchaser shall pay interest on all overdue invoices at the rate of 4% over base rate charged by National Westminster Bank for the time being.
- e. Without prejudice to 8c or 8b above, if the Purchaser fails to make payments in accordance with 8c or 8b above the Company may:
 - i. suspend all further work until payment is made.
 - ii. Enter the site and remove all plant and materials and dismantle and remove any work undertaken as part of this contract.
 - iii. Charge the Purchaser for the cost of re-establishing the site works once settlement of outstanding monies has been made.

9. Property in Goods

All materials and equipment (whether fixed or not) supplied hereunder shall remain the property of the Company until the full purchase price, and any interest due to the Company, is paid. The Customer shall not permit or suffer any lien, charge or encumbrance to arise in respect of the goods.

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10. Conditions

All quotations assume the following conditions unless otherwise stated in the specification:

- a. The Purchaser will provide, at his expense, so that the Company can start work immediately on arrival:
 - i. An existing glasshouse or site suitable for the work to be carried out and cleared of all obstructions including overhead pipes and cables.
 - ii. Clear access to, on and around the site at all times, suitable for heavy transport vehicles and road wheeled plant and any other equipment used during the course of the works, and access to the site at all times for the Company's employees or agents with or without equipment, without notification to the Purchaser.
 - iii. Suitable hard standing to support erection equipment and plant delivering materials onto the site.
 - iv. An adequate supply of clean water and electricity.
- b. Unless otherwise specified, the soil shall be top soil, overlaying clay and/or sandy sub soils only. There shall be no abnormal ground conditions in or around or affecting the site, e.g. (but not limited to) wells, other foundations, rock, running sand, cables or pipes.
- c. The Company's erection teams will be able to operate continuously, making one visit for each planned phase of their work.
- d. The Purchaser shall provide such temporary protection as may be necessary during works affecting existing property.
- e. The Purchaser will provide, free of charge, all necessary compound storage facilities and welfare facilities as, when and where required.

11. Sub-contracting

The Company may sub-contract the whole or part of the works.

12. Standard Specifications

All quotations, unless otherwise specified shall be deemed to cover the provision of a standard Flowering Plants Ltd installation, in accordance with the Company's specification.

13. Acceptance of Goods

Suppliers of certain materials and goods cannot always notify the Company who in turn, cannot notify the Purchaser of their delivery. The Purchaser shall accept delivery of such goods if they should arrive when the Company's personnel are not on site and ensure that they are received complete and in accordance with delivery tickets and shall store and adequately protect them in a safe place on or near to the site of the works.

14. Insurance and Liability for Damage

- a. The Purchaser shall be liable for all loss and damage to the Company's goods, plant and equipment, whilst on the Purchaser's property or in his custody.
- b. Save as may be required by the Unfair Contract Terms Act 1977 the Company shall not be liable for damage to the Purchaser's property or to any hidden or underground object, matter or services, whether arising by the negligence of the Company or its servants or otherwise and shall in no case (including negligence) be liable for any consequential damage.
- c. Shortage of goods or damage must be notified within three days of delivery, or not claim can be accepted. The product(s) and package(s) must be retained for inspection.
- d. Liability cannot be accepted for non-delivery of goods if written notification is not received within 10 days of the date of invoice.

15. Indemnity

The Purchaser will indemnify the Company against all liability towards any person for any injury, loss or damage to the extent that the same was caused by the negligence or breach or statutory duty or defective premises of the Purchaser or any of his employees.

16. Variations

- a. All variations to the Purchaser's order agreed before the Company's acceptance, shall be subject to contract and deemed to be part of the Purchaser's order. On acceptance of the Order by the Company, they shall be part of the Contract thereby constituted.
- b. Variations subject to the contract shall be notified to and accepted by the Company in writing and the cost thereof shall thereupon be chargeable to and payable by the Purchaser in accordance with Clause 6 of these conditions.
- c. No foreman or workman on site has the authority to agree variations to work.

17. Conditions of Contract

The Company enters into contracts on these conditions of contract only and no modifications or addition to or omission or departure from the same by any employee or agent of the Company shall be binding on the Company unless agreed to by the Company in writing.

18. Applicable Law

The Contract shall be governed by English Law and any dispute connected with or arising out of it shall be justiciable in the English Courts only.