



GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF MECHANICAL, ELECTRICAL AND ELECTRONIC PRODUCTS AND THE IMPLEMENTATION OF ORDERS

Article 1 Definitions

Contracting Party:	the party with which Hortimec has entered into an contract
Hortimec:	the commercial partnership Hortimec B.V.
Contract:	the contract (for professional services and/or sales) entered into between the Parties
Parties:	Hortimec and the Contracting Party
Product:	the items supplied or to be supplied by Hortimec

Article 2 Applicability and interpretation

1. These general terms and conditions are applicable to all tenders and Contracts of Hortimec and the Contracting Party, and to all follow-up agreements between Hortimec and the Contracting Party.
2. In the event of an interim amendment of a Contract between Hortimec and the Contracting Party, these general terms and conditions remain fully applicable.
3. The general terms and conditions of the Contracting Party are expressly not accepted. The general terms and conditions of Hortimec are exclusively applicable, unless Hortimec expressly accepts the general terms and conditions of the Contracting Party in writing.
4. Divergences from these general terms and conditions are only applicable insofar as this is expressly confirmed by Hortimec in writing.
5. In the event of inconsistencies between a Contract and these general terms and conditions, the Contract will prevail over these general terms and conditions.
6. In the interpretation of these general terms and conditions no significance will accrue to the position of the articles and/or their titles.

Article 3 Offers and contracts

7. Offers from Hortimec are free of obligation, and should be regarded as a single whole. Acceptance of a component and/or components of an offer from Hortimec is therefore not possible, unless Hortimec expressly accepts this in writing.
8. Offers from Hortimec become void if they are not accepted within 14 days, unless another period is agreed in writing.
9. In the event that the written (order) confirmation of Hortimec diverges from the order/request issued by the Contracting Party, the Contracting Party will be considered to be in agreement with the divergence unless the Contracting Party has stated in writing within 14 days of receipt of the (order) confirmation that it does not agree to the divergence.
10. Hortimec reserves all intellectual property rights on its offers and their associated designs, drawings, descriptions etc. These details may only be used, copied and provided to third parties (for inspection) with the express written permission of Hortimec.
11. Verbal agreements are only binding upon Hortimec insofar as they are confirmed by Hortimec in writing.
12. For Contracts for which no price agreements are made, the hourly fee that Hortimec employs at that time or the price that Hortimec charges for such a product applies.

Article 4 Faults and defects in the issued orders and documentation

13. Hortimec does not accept any liability whatsoever for errors and defects in the order issued by the Contracting Party, or in the plans, drawings, calculations, specifications, implementation instructions etc. issued by the Contracting Party.
14. Hortimec does not accept any liability whatsoever for errors and defects in the order issued by the Contracting Party, in case other components, modules or machines that were not supplied by Hortimec are integrated in line with machines that were supplied by Hortimec. Defects also include lower production capacity and reduced functionality of machines supplied by Hortimec as a result of the application and integration of components, modules or machines that were not supplied by Hortimec.
15. **The Contracting Party indemnifies Hortimec against any claims from third parties in respect of that which it has supplied to Hortimec, all of this in the broadest sense of the terms.**

Article 5 Delivery, provision, the time thereof and transfer of risk

16. Any times of delivery and provision agreed between the Parties are approximate.
17. The time of delivery and provision will in any event be extended by: a) the period in which Hortimec does not have the information needed by it and to be issued by the Contracting Party at its disposal, b) the time that is needed to carry out any additional work, c) the period in which the working conditions are such that the work cannot be carried out, d) the period in which the Contracting Party does not comply with its obligations towards Hortimec arising from the contract, and e) the period in which Hortimec, due to circumstances that are not at its risk, cannot carry out the work or supply the Product. These last-named circumstances will also be considered to include noncompliance with obligations by suppliers and/or contractors or subcontractors that are engaged by Hortimec.
18. If the time of delivery and provision is extended on the basis of the foregoing paragraph, the work will be carried out by Hortimec once this is possible given its other orders and/or work.
19. Hortimec is not liable for damage that arises from the periods stated in the above paragraphs being exceeded.
20. The risk of the Product or a work lies with the Contracting Party from the time of delivery and provision or dispatch of a Product by Hortimec.
21. Any agreed trading condition will be interpreted in accordance with the Incoterms. If the parties have not agreed any specific trading condition, delivery will take place ex works.

22. The Contracting Party will enable Hortimec to deliver or provide the Product or work once again within a reasonable period if it shows a defect.
23. The Contracting Party will make enough young plants, seeds and/or cuttings available to Hortimec to enable the Product to be tested and configured.
24. Hortimec is not responsible for the Contracting Party's electrical equipment on location, and the Contracting Party is obliged to indemnify Hortimec against additional costs in the installation work as a result of defects in the electrical equipment such as wiring and fuses.
25. Information and specifications stated in product documentation and price lists are only binding insofar as these are explicitly referred to in the contract with Hortimec.
26. If an acceptance test is agreed prior to provision, this will take place at the production location, or at another location to be designated by Hortimec. If the Contracting Party is not present, a test report will be sent and this will be considered to be accurate. Costs that the Contracting Party incurs in order to be present at a test will be borne by the Contracting Party.

Article 6 Extent of delivery/work

27. The extent of the work/delivery will be determined by that which is specified in Hortimec's tender or in the Contract.
28. Contract variations are defined as alterations in the work and delivery.

Article 7 Price

29. The amount that is agreed in writing between the parties, or in the absence of this the amount stated by Hortimec in the order confirmation or tender, applies as the price.
30. If no price is agreed between the parties, the prices normally applied by Hortimec at the time of the performance of the work and/or the delivery of the Product apply.
31. If a delay in the delivery and provision of the work or item arises due to circumstances that are at the Contracting Party's risk, and/or additional work is necessary in order to fulfil the contract, the costs of this will be charged to the Contracting Party.
32. Hortimec is authorised to charge to the Contracting Party the costs that are caused by the coming into force of or amendments to government regulations, unless this coming into force and/or these amendments were known to Hortimec at the time of the Contract being entered into.

Article 8 Payment

33. The Contracting Party must settle Hortimec's invoices within 14 days of the invoice date.
34. After the abovementioned period is exceeded the Contracting Party is in default without a notice of default being necessary.
35. In the event of late payment the Contracting Party is liable to pay interest of 1% per month, or the statutory commercial interest if this is higher, whereby a part of a month applies as a whole month, from the expiry of the payment period, as well as the extrajudicial collection costs, and it is obliged to reimburse the damage suffered by Hortimec.
36. In the event of late payment Hortimec is also entitled to suspend its activities and to stipulate security for compliance with all obligations that arise from the contract for the Contracting Party.
37. Authorisation for deduction or suspension by the Contracting Party is excluded.
38. If the Contracting Party does not comply with any obligation arising from the agreement in a timely manner, applies for a suspension of payment, goes bankrupt, is liquidated or transfers all or part of its business, Hortimec's claims are immediately payable in full.

Article 9 Non-purchase

39. If the Contracting Party does not purchase a Product after it has been made available by Hortimec, it will be stored by Hortimec at the Contracting Party's risk and expense, without prejudice to its other (statutory) rights and the obligation of the Contracting Party to pay the agreed price to Hortimec within the agreed period.

Article 10 Retention of ownership

40. If delivery by Hortimec has taken place before the Contracting Party has fulfilled all of its (payment) obligations towards Hortimec, then the delivered items remain the property of Hortimec until the Contracting Party has fulfilled the abovementioned obligations.
41. In the case of the export of a Product, the Contracting Party will ensure that sufficient security is provided on Hortimec's demand.

Article 11 Liability

42. Hortimec's liability is in all cases limited to the amount that its liability insurer pays out when appropriate (a maximum of €1,250,000 with the exception of the United States of America and Canada, where no cover applies) and in any event to the amount exclusive of VAT that it has charged to the Contracting Party in respect of the Contract or that part of the Contract to which the liability relates.
43. Without prejudice to the foregoing, Hortimec is in no way liable towards the Contracting Party or third parties for damage to the property of the Contracting Party and/or third parties, physical injury, direct and indirect consequential damage, including among other things trading loss, damage due to business stagnation, lost profits and decreased value. Hortimec is also not liable for damage that arises because the Contracting Party has provided Hortimec with inaccurate information.
44. The Contracting Party indemnifies Hortimec against all claims by third parties.
45. Without prejudice to the foregoing, the period of Hortimec's liability is limited to 12 months after the delivery of a Product or the provision of a work, on the understanding that this period will be proportionally reduced if the Product is used more intensively than foreseen.

Article 12 Lapse of rights

46. The Contracting Party can no longer invoke defective performance unless it has informed Hortimec of the defect in writing within 2 weeks of it having discovered it or could be expected to have known of it.

Article 13 Repair and rectification of defects

1. In the event of the repair of defects and/or rectification of deficiencies any guarantee periods will only be extended in respect of the repaired and/or replaced components. The guarantee conditions remain unchanged.
2. Defects will be rectified at a location to be designated by Hortimec, and will be considered to have been rectified when Hortimec dispatches the repaired or - if necessary - replaced component to the Contracting Party, unless it cannot be reasonably expected of the Contracting Party that it will install the repaired or replaced component itself.
3. If it is necessary for the repair or replacement of a Product that additional measures must be taken to enable repair or replacement, then the Contracting Party will take these measures on Hortimec's demand.
4. The Contracting Party is obliged to return replaced components to Hortimec on demand and free of charge.

Article 14 Additional provisions for contracts for professional services

5. In divergence from the provisions of article 7:408 paragraph 1 of the Dutch Civil Code, contracts for professional services with Hortimec cannot be prematurely terminated.
6. The applicability of articles 7:404, 407 paragraph 2 and 409 of the Dutch Civil Code is excluded.

Article 15 Applicable law and disputes

7. All disputes arising from contracts with Hortimec will be exclusively settled by the competent court in Rotterdam.
8. All contracts with Hortimec are governed by the laws of the Netherlands, with the exclusion of the Vienna Sales Convention.

Article 16 Other provisions

9. If any provision of these general terms and conditions is inapplicable, the other provisions remain fully in force.