

GENERAL TERMS AND CONDITIONS OF JIFFY AND GROUP COMPANIES

Article 1 - General

1.1 All agreements with and offers and quotations to Jiffy companies (or other companies that use these General Terms and Conditions) are subject to these General Terms and Conditions. The user of these terms and conditions (Jiffy companies or other users) is hereinafter also referred to as "Jiffy".

1.2 In these General Terms and Conditions "the other party" is taken to mean the party with whom Jiffy enters (or wishes to enter) into a legal relationship. An "assignment" is taken to mean the fact that such other party issues (or does not issue) an instruction to deliver potting soil or other products and/or services, including advice.

Article 2 - General application

2.1 These General Terms and Conditions govern all legal relationships in which Jiffy acts as actual or potential buyer and/or supplier of products and/or services.

2.2 Deviations from these terms and conditions are only valid when set out in writing by both parties or when confirmed in writing by Jiffy.

Article 3 - Formation of an agreement

3.1 If the other party issues an assignment, the related agreement takes effect upon written acceptance by Jiffy or by its manifest start of the execution of the assignment.

Article 4 - Prices

4.1 Except when agreed otherwise in writing, all prices are ex warehouse or, if applicable, ex storage. All prices are exclusive of VAT.

4.2 Any future changes in labour costs, transport costs, prices of raw or other materials and/or currency exchange rates not yet known at the time of signing an agreement, which relate to the agreed performance, may be automatically passed on by Jiffy. Such additional charges within three months after the effective date of the agreement give the other party the right to dissolve the agreement on such ground, by means of written notification to Jiffy.

Article 5 - Delivery / delivery period

5.1 Delivery periods agreed with Jiffy serve as an indication and not as a deadline. This also applies to the supply of services.

5.2 Except as agreed otherwise in writing, delivery takes place ex warehouse or, when applicable, ex storage.

5.3 If Jiffy arranges the transport, it then determines the method of transport and the insurance during transport. Both of these can be separately charged to the other party. Transport is at the risk of the other party.

5.4 Jiffy is authorised to execute its performance(s) in parts, unless this explicitly is in contravention of contradicts written arrangements made with the other party.

Article 6 - Payment

6.1 Invoices by Jiffy must be paid prior to the due date mentioned on the invoice and in the way to be indicated by Jiffy. Payment must be effected in the agreed currency and without set off, discount and/or suspension.

6.2 In case of late payment, all payment obligations of the other party, regardless of whether these have already been invoiced by Jiffy, are immediately due and payable. Jiffy will notify the other party in writing if it demands such payment and send an appropriate invoice. Jiffy then has the right, among other things, to suspend its delivery obligation and/or may require adequate security as referred to in Article 8 of these terms and conditions, or has the right to terminate the agreement partially or otherwise, as referred to in Article 11 of these terms and conditions.

6.3 In case of late payment, the other party shall owe interest at the statutory commercial rate.

6.4 Should the other party default on one or more of its obligations, all reasonable out-of-court expenses incurred to ensure payment are payable by the other party, according to the following table:

over the first EUR 2,950	15%
over the excess up to EUR 5,900	10%
over the excess up to EUR 14,748	8%
over the excess up to EUR 58,990	5%
over the excess	3%

If Jiffy provides evidence that it has incurred higher expenses that were necessary in all reasonableness, then these out-of-court expenses to ensure payment qualify for compensation.

6.5 Should a claim be made against Jiffy by the other party on whatever ground, as a result of which and Jiffy sees itself compelled to engage an expert to establish the facts on which the other party bases its claim, the other party is then required to compensate Jiffy for the fees charged to Jiffy by this expert if and insofar as the claim (or claims) of the other party turn(s) out to be unjustified, whether or not after appeal to the General Terms and Conditions, such to prevent legal proceedings. After the investigation by the expert has been completed, the other party has 14 days to submit a claim.

6.6 Payments by or on account of the other party are applied successively in settlement of any extrajudicial collection costs that it owes, judicial expenses, interest charges that it owes, and then the outstanding principal amounts in order of their age, without regard to different indications by the other party.

6.7 The other party can only object to an invoice in writing and within the payment term.

Article 7 - Retention of title and pledging

7.1 Jiffy retains title to the goods that it delivers or will deliver until it has received the following in full:

a. the payments owed by the other party for all goods delivered or to be delivered pursuant to a contract, as well as for services provided or to be provided;

b. claims because of failure by the other party to comply with such contract(s). The other party may not appeal to any right of retention with regard to safekeeping expenses nor set off these expenses against the amounts that it owes.

7.2 If any goods accrue to Jiffy pursuant to Article 7.1, the other party can only dispose of these goods within the context of its normal business operations.

7.3 If the other party defaults on its payment obligation referred to in Article 7.1, Jiffy is authorised to recover the goods that it still owns from where the goods are located, at the expense of the other party. The other party hereby grants Jiffy an irrevocable authorisation to access its premises in such event.

7.4 The other party undertakes to pledge to Jiffy, should it so demand - with Jiffy accepting such pledge, all goods of which the other party becomes the full or joint owner by means of specification, accession, confusion or merger with the goods delivered and/or to be delivered by Jiffy, as well as all claims that the other party may have against its customers arising from onward supply by the other party to its customers of goods that have been sold and delivered by Jiffy to the other party, all such serving as security for all claims that Jiffy has against the other party at any time. When requested thereto, the other party shall immediately sign a related deed of pledge.

Article 8 - Security

8.1 If there are good reasons to assume that the other party will not meet its obligations promptly, the other party is then obliged, should Jiffy so demand, to immediately provide satisfactory security in the form requested by Jiffy, and to raise this as necessary to ensure compliance with all of its obligations. So long as the other party has not met this demand, Jiffy is authorised to suspend fulfilment of its own obligations.

8.2 If the other party fails to act on a demand as referred to in Article 8.1 within 14 days after a written reminder thereto, all of its liabilities become immediately due and payable.

Article 9 - Complaints, obligation to examine, expiration and compliance

9.1 The other party has the obligation to examine, upon delivery and not later than 24 hours after delivery (on a sample basis if not possible otherwise), whether the goods delivered comply with the contract between the parties. If this is not the case and the other party fails to notify Jiffy hereof in writing within seven days (after 48 hours after delivery), the other party then forfeits all rights pertaining to the failure of the delivered goods to meet the requirements of the contract. Should Jiffy not receive a notification within seven days (after 48 hours after delivery) that the delivered goods fail to meet the contractual agreement, then it will be regarded between the parties as having been proven that the delivered goods comply with the contract.

9.2 All claims and defences, based on facts and/or assertions to the effect that the goods delivered fail to meet the terms of the contract between the parties, lapse one year after the delivery date.

9.3 Should the goods delivered fail to meet the contract between the parties, Jiffy is then only required to deliver the missing goods or to repair or replace the goods delivered.

9.4 The provisions of this article apply equally to the performance of services, with the proviso that in the case of services the term of one day after delivery mentioned in Article 9.1 is to be interpreted as one month after provision of the service.

Article 10 - Amounts, sizes, weights and other data

10.1 Minor deviations with regard to sizes, weights, colours and other such data are not regarded as a breach of contract.

10.2 A minor deviation exists in case of a margin not exceeding 10% more or less than the supplied specification. Minor deviations with regard to sizes, weights, amounts, colours and similar data will be permitted.

10.3 Demos or provided samples serve merely for indication purposes, without a product that is the subject of a sales or service contract having to be identical thereto.

10.4 The Dutch government has issued various orders in council ("Algemene Maatregelen van Bestuur") that contain provisions regarding product marketing methods. Both Jiffy and the other party agree to adhere to all Dutch legal requirements, including relevant orders in council.

Article 11 - Nonperformance

11.1 Should the other party fail in its performance of any obligation towards Jiffy, as well as in the event of application for a moratorium, a provisional moratorium that has been granted, an application or claim of bankruptcy, a winding-up petition, actual bankruptcy or liquidation or discontinuation of all or part of the business of the other party, Jiffy is then authorised, without prejudice to its further rights and without any obligation to pay damages, to dissolve all or part of the agreement with immediate effect or to suspend further implementation of the contract.

11.2 Should Jiffy dissolve the agreement pursuant to the provisions in Article 11.1, then, without prejudice to Jiffy's further rights, all of the other party's liabilities towards Jiffy arising from whatever ground become immediately due and payable, and Jiffy will be authorised to immediately suspend the further execution of any assignment.

11.3 Should proper performance by Jiffy become wholly or partially impossible, whether temporarily or permanently, due to one or more circumstances for which Jiffy is not responsible, including the circumstances referred to in Article 11.4, Jiffy then has the right to dissolve the agreement with the other party by written notification.

11.4 Circumstances (non-exhaustive) for which Jiffy is in any case not responsible include:

- actions by persons that Jiffy engages in the execution of the contract with the other party;
- unsuitability of products that Jiffy uses during the performance of the agreement with the other party;
- execution by third parties towards the other party of one or more rights with regard to a failure on the part of the other party in complying with a contract entered into between the other party and such third parties pertaining to products delivered by Jiffy;
- any strike, exclusion of workers, illness, import and/or transit ban, transport problems, failure on the part of Jiffy's suppliers in their obligations, production failures, natural and/or nuclear disasters, and war and/or threat of war;
- potential quality issues such as (but not limited to) those identified under Article 12.1.

Article 12 - Liability and damages

12.1 Jiffy makes every effort, with regard to the delivery of products mentioned in this paragraph, to supply culture media that, especially with regard to organic culture media and their composite elements, are free of micro-organisms that are pathogenic for humans and plants. The culture media are not sterile but bacteriologically active. Micro-organisms may be indigenous and may colonise the culture media during storage or growth of crops, depending on the season and on culture conditions. Most culture media contain high percentages of organic materials that are automatically exposed to bacteriological decomposition by means of fungi, bacteria, actinomycetes and other organisms. Saprophytic nematodes may occur in small numbers in culture media. Nutrient and calcium supplements can stimulate the growth of saprophytic organisms. Jiffy in any case does not accept any liability for damage to possessions or for financial loss caused by the all-pervasive colonisation of micro-organisms, as well as the all-pervasive presence of saprophytic organisms, through the growth of fungi on or in the culture medium.

12.2 As to damage resulting from goods or services that Jiffy has supplied, Jiffy can only be held liable above the limits identified below in Article 12.4 of these General Terms and Conditions if such damage is due to deliberate intent or gross negligence on the part of its supervisory personnel.

12.3 Jiffy will never be required to pay compensation other than for damage to persons or objects.

12.4 Jiffy's liability with regard to a claim or a series of claims arising from the same cause is limited to the invoice value of the delivery or assignment that its liability arises from. As an exception to this rule, Jiffy's liability of reimbursing at invoice value, is excluded for materials added and mixed outside our standard range (third party or Jiffy manufactured) at the counterparty's/buyer's/purchaser's request.

12.5 Jiffy claims all legal and contractual defences that it can invoke to ward off its liability towards the other party also on behalf of its employees and subcontractors.

12.6 The other party indemnifies Jiffy against all claims by third parties, unless such claims arise from deliberate intent or gross negligence on the part of supervisory personnel of Jiffy.

Article 13 - Applicable law and court with jurisdiction

13.1 All legal relationships, both national and international, between Jiffy and the other party shall not be subject to the Vienna Sales Convention but to the law of the country where the user of these General Terms and Conditions resides.

13.2 Contrary to all non-mandatory provisions that apply to the legal relationship between Jiffy and the other party, all disputes between Jiffy and the other party will be submitted to the competent judicial authority with subject matter jurisdiction - with exclusion of all other courts - where the user (Jiffy) of these General Terms and Conditions has its registered (or non-registered) office. Contrary to all non-mandatory provisions between the parties, territorial jurisdiction lies with the court of the place of residence of the user of these General Terms and Conditions - with exclusion of all other judicial authorities. Jiffy is nonetheless authorised, when it starts legal proceedings as claimant or applicant, to submit its case to another judicial authority that has subject-matter or territorial jurisdiction.

Article 14 - Conversion

If and insofar as any provision or part of any provision in these General Terms and Conditions cannot be invoked due to inconsistency with applicable law, then such provision will be interpreted such that it corresponds as much as possible in terms of content and tenor with the intention of the related full or partial provision at the time of the drafting, so that the parties can still appeal thereto.

Article 15 - English text prevails

These General Terms and Conditions have been drawn up with the intention of being used in national and international agreements. In the context of this intent these General Terms and Conditions will be translated from English into other languages. Should the parties differ of opinion regarding the interpretation of a non-English version of these General Terms and Conditions, the English text of the General Terms and Conditions shall prevail over a translation thereof.