

# General terms and conditions of purchase of Koppert B.V.



## Article 1. Definitions

The following terms used in these General Terms and Conditions of Purchase of

Koppert BV have the following definitions:

- Terms and conditions of purchase: these General Terms and Conditions of Purchase of Koppert BV
- Koppert: Koppert B.V. or its affiliated companies
- Supplier: the party with which Koppert contracts, which includes suppliers, service providers, providers of goods
- Agreement: the written contract between Koppert and the Supplier
- Incoterms: the current version of the Incoterms at the time the Agreement is signed
- Days: calendar days

## Article 2. Applicability

- 2.1 These Terms and conditions of purchase govern all requests, offers, orders, and Agreements for the purchase, use, or delivery of goods and/or services from the Supplier by Koppert.
- 2.2 Any general terms and conditions of sale or otherwise of the Supplier are expressly rejected by Koppert.
- 2.3 If any term of these Terms and conditions of purchase is declared to be partially or fully inapplicable or is declared voided, the other terms will nevertheless remain fully enforceable.
- 2.4 Any exception to these Terms and conditions of purchase as part of an Agreement is only possible by express written agreement signed by Koppert.
- 2.5 Koppert is entitled to amend these Terms and conditions of purchase. Amendments to these Terms and conditions of purchase will be notified by Koppert to the Supplier in writing and will come into effect no sooner than two months after such written notice.

## Article 3. Conclusion of the Agreement

- 3.1 An Agreement becomes binding once there is written acceptance by an authorized representative of Koppert of a written offer by the Supplier or written acceptance by the Supplier of a written order from the authorized representative of Koppert.
- 3.2 If the Supplier begins to carry out an order before there is a binding Agreement as defined in section 1 of this article, or after the Supplier has raised an objection to an order but before agreement has been reached in this respect, then such steps to carry out the order are deemed to be a full and unconditional acceptance of the order and of these Terms and conditions of purchase, and the Supplier at such time also unconditionally waives any objections that it may have to the order.
- 3.3 All offers from the Supplier are irrevocable. All costs incurred by the Supplier in respect of a request or an offer, such as the supply of samples or documentation, are entirely the liability of the Supplier and will not be refunded.
- 3.4 Until such time as the Supplier has fully accepted an offer from Koppert in writing, Koppert is entitled to withdraw its offer at any time without thereby incurring any liability for loss or costs of the Supplier resulting therefrom.

## Article 4. Performance of the Agreement

- 4.1 The Supplier must perform the Agreement in accordance with all terms contained therein. The general or special provisions contained in any request, offer, or order, as well as these Terms and conditions of purchase, constitute a part of any Agreement made between Koppert and the Supplier.
- 4.2 If it is intended that the Agreement be performed by a specific person, the Supplier is only permitted to replace such person with one or more others provided that they have the same qualifications and with the prior written consent of Koppert.
- 4.3 Agreement variations and the consequences thereof for, inter alia, costs and delivery dates, require the prior written consent of Koppert.
- 4.4 The Supplier is not entitled to suspend performance of its obligations under the Agreement, irrespective of the grounds thereof.
- 4.5 The Supplier is not permitted to engage a third party to perform all or any part of an agreement without the express prior written consent of Koppert. Such consent may be conditional. The Supplier remains at all times fully liable for any third party it engages. The Terms and Conditions of Purchase apply in full.
- 4.6 The Supplier is obliged to perform any work in accordance with company-specific standards and rules that apply at Koppert.

## Article 5. Prices

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- 5.1 The agreed prices are fixed, are denominated in Euros, and exclusive of VAT.

## Article 6. Packaging and transportation of goods

- 6.1 The Supplier is responsible for the proper packaging, safety, and transport of goods, and for ensuring that they reach the point of delivery in good condition and can be safely unloaded there. The Supplier is responsible for ensuring that it complies, and any haulier contracted on its behalf complies, with all relevant regulations governing packaging and transport.
- 6.2 If necessary for the transport of the goods, the Supplier will obtain at its own expense the required export and import licences, and will comply with other formalities required by national or foreign government agencies.
- 6.3 The Supplier will ensure that Koppert receives in good time the consignment note or bill of lading to enable Koppert to receive the goods.

## Article 7. Delivery, delivery dates, and periods

- 7.1 Goods will be delivered, unless otherwise indicated by Koppert, in accordance with Incoterms 2020 DDP, at the agreed place and on the agreed date or within the agreed period or periods. Services must be supplied at the agreed place and on the agreed date or within the agreed period or periods. An agreed delivery date or delivery period is a deadline. If a delivery date or delivery period is exceeded, the Supplier is automatically in breach of contract without the need to serve notice of default.
- 7.2 If no place for delivery has been expressly agreed, the delivery is to be made to Koppert's address at Veilingweg 14, 2651 BE Berkel en Rodenrijs, the Netherlands.
- 7.3 If Koppert is not reasonably able to purchase the goods or services offered for delivery, the Supplier will store these for a period to be agreed between the parties, at its own expense and risk, and in such a way that guarantees that the composition thereof remains correct and constant and that the required level of quality is maintained. In such a case, the Supplier has no entitlement to compensation, and is not entitled to terminate the Agreement without court proceedings or to suspend performance of its obligations.
- 7.4 The Supplier must immediately notify Koppert in writing of any risk that a deadline may not be met. This does not affect any consequences for failure to meet the deadline under the Agreement, these Terms and conditions of purchase, or statutory provisions.
- 7.5 The Supplier is not entitled to supply goods or services in part deliveries without the prior express written consent of Koppert.
- 7.6 If the Supplier is in attributable breach of any of its obligations under this article, it is automatically in breach of contract without the need to be first served with notice of default, and Koppert is entitled either to terminate all or part of the Agreement, or to require specific performance thereof. In either case, the Supplier will be liable for a non-refundable, immediately payable penalty of 10% of the purchase price for the goods and/or services, without prejudice to the right of Koppert to claim full compensation if its loss exceeds the amount of the penalty.
- 7.7 Until delivery has been performed in accordance with this article, thus for the period including the transport of goods, the Supplier bears the risk of the goods to be delivered, even if the transporter specifies in consignment notes, shipping documents, etc. that any damage incurred during transportation is at the expense and risk of the recipient.
- 7.8 All costs incurred by the Supplier in connection with the supply of goods and/or services including government taxes and duties, are the liability of the Supplier.
- 7.9 The Supplier must examine and test the goods, packaging, and other items to be supplied to Koppert for composition and quality before their processing or use, and report any irregularities to Koppert in writing before processing or use.

## Article 8. Ownership

- 8.1 The ownership of the goods supplied transfers at the point of delivery, as specified in Article 7.
- 8.2 At the point of delivery, the Supplier transfers full and unencumbered ownership of the goods. The Supplier is not entitled to retention of title. The Supplier indemnifies Koppert against any third-party claims upon goods or services by virtue of any guarantees given by the Supplier to such third parties or based on any ownership rights alleged by such third parties.

## Article 9. Drawings, materials, and equipment

- 9.1 Drawings, models, instructions, specifications, materials, tools, and other equipment supplied to Koppert or purchased or produced (by the Supplier or otherwise) at the expense of Koppert remain the intellectual or industrial property of Koppert or become the intellectual or industrial property of Koppert at the point that they are purchased or produced.
- 9.2 The Supplier must identify the drawings, materials, tools, etc. as described in the preceding section as belonging to Koppert, keep them in good condition, insure them in the manner described in Article 17, and bear the risk relating to such goods for as long as it is in possession thereof.
- 9.3 Any changes to the drawings, materials, tools, etc. as described in section 1 of this article or their application to or in connection with any purpose other than for their supply to Koppert is prohibited without the prior written consent of Koppert. Any such consent does not affect the guarantee obligations of the Supplier.

#### Article 10. Guarantee, approval, inspection, and testing

- 10.1 The Supplier guarantees that all goods and services it supplies comply with the agreed terms and with the specifications and tolerances required by Koppert; are of a good quality; are free of construction and manufacturing defects, defects in materials, and other faults; are manufactured to a good level of skill; and comply with all statutory and other governmental regulations and with all safety, quality, and environmental standards applicable within the sector at the time of delivery. The Supplier furthermore guarantees that for the duration of the Agreement its personnel or third parties will meet the agreed required qualities with regard to education, expertise, and experience and that the Supplier will work in a safe, healthy, and environmentally responsible way. The Supplier is responsible for and ensures that the required tools, personnel, or third parties are used.
- 10.2 The Supplier will either repair or replace at its own expense and risk, as Koppert may decide, any goods and services that contain any visible or hidden defects, on demand by Koppert and within such reasonable period as Koppert may stipulate, without prejudice to the right of Koppert to reimbursement of all costs and loss resulting from such defects.
- 10.3 Koppert, or such persons or bodies designated by Koppert, is at all times entitled to inspect, examine, or test the goods and services wherever their location. The Supplier must fully cooperate with this. Koppert may also at any time require – free of charge – a manufacturing or confirmation sample.
- 10.4 If as a result of an inspection, examination, or test conducted before, during or after delivery any or all of the goods or services are rejected, Koppert will notify the Supplier of this fact as soon as possible in writing.
- 10.5 Koppert is not obliged to have any inspection, examination, or test conducted at the point of delivery. As soon as any visible defect is discovered, Koppert will notify the Supplier accordingly in writing.
- 10.6 The above terms do not release the Supplier from its full liability for any short or longterm consequences of any discrepancies in quality, finish, quantity, or the presence of hidden defects in goods or services supplied to Koppert. If any inspection, examination, or test has been carried out as described in this article, this does not imply any definitive acceptance.
- 10.7 If goods or services are rejected during or after delivery, the risk and ownership of these goods or services transfers to the Supplier from the date of the notice referred to in the preceding section.
- 10.8 If the supplied goods or provided services entirely or partially do not fulfil the Agreement in Koppert's opinion, then within the warranty term Koppert can – without prejudice to all other rights and claims – choose from: a. returning the goods at the expense and risk of the Supplier; b. performing the restoration, adaptation, improvement, or redelivery of goods or performance of the services by the Supplier free of charge; c. immediately wholly or partially terminating the Agreement and invoicing the supplementary compensation.

#### Article 11. Amending the Agreement

- 11.1 Koppert has the authority to make written changes to or supplement the Agreement. Koppert is entitled to make modifications to drawings, models, instructions, specifications, etc., pertaining to the goods or services to be supplied.
- 11.2 If in the opinion of the Supplier any such amendment has consequences for the contract price and/or delivery period, the Supplier must notify Koppert accordingly in writing as soon as possible, and in any event within eight days following notice of the required amendment, before implementing the change. If in the opinion of Koppert the consequences for the price and/or delivery period are unreasonable having regard to the nature and scope of the amendment, Koppert is entitled to terminate all or part of the Agreement by written notice to the Supplier. Termination under this section gives neither party the right to claim compensation of any kind from the other.
- 11.3 The Supplier may not make or implement any such amendment without the prior written instruction or consent of Koppert.

#### Article 12. Payment

- 12.1 Unless agreed otherwise in writing, payment will be made within 60 days following delivery of the goods or service and receipt of the invoice.
- 12.2 Koppert is entitled to set off its liability for invoiced amounts against sums owed by the Supplier to Koppert, or to suspend payment of any invoice until the Supplier has complied with all its obligations to Koppert.
- 12.3 Payment of an invoice by Koppert does not constitute acceptance that the goods or services comply with the guarantees set out in Article 10 and does not affect any claims that Koppert may have against the Supplier.

#### Article 13. Intellectual and industrial property

- 13.1 The Supplier guarantees that the use (including sale or supply) of the goods or services it supplies, as well as of the drawings, materials, tools, etc., it purchases or produces for the benefit of Koppert, does not infringe any third-party intellectual or property right, or any other third-party right.
- 13.2 The Supplier indemnifies Koppert against any claims arising from any infringement of the rights described in the preceding section, and against all third-party loss, costs, and claims due to an infringement or alleged infringement of such intellectual, industrial, or other property rights.
- 13.3 Drawings, models, images, designs, calculations, instructions, specifications, processes, moulds, software, source codes and anything else that could be the subject of any intellectual or industrial right that is created for, and on the instructions of, Koppert by or on behalf of the Supplier, and any intellectual or industrial property rights relating thereto, accrue exclusively to Koppert, who will also be regarded as the maker and/or designer thereof, irrespective of whether Koppert makes any separate or inclusive payment therefor, or the invoice for the goods and/or services is paid by Koppert. The Supplier undertakes to take all such steps as assist Koppert in acquiring the exclusive rights described above, including executing the required deeds of transfer.

#### Article 14. Confidentiality

- 14.1 The Supplier must respect the confidentiality of all trade secrets and all other business information originating from Koppert, including everything it learns about Koppert in the context of a request, offer, instruction, or the performance of an Agreement.
- 14.2 In the event of a breach of a provision of this article or Article 13, the Supplier is liable to pay an immediate, non-refundable penalty of €5,000 per breach and €500 for each day or part day that the breach continues, without prejudice to the right of Koppert to claim compensation for the full amount of its loss, together with enforcement, where appropriate, of the obligations of the Supplier.

#### Article 15. Suspension and termination

- 15.1 Koppert is entitled to suspend performance of the Agreement or to terminate all or any part of the Agreement by written notice having immediate effect, and without the need to first serve any warning or notice of default, or to obtain a court order, without prejudice to all its other rights to compensation for costs, loss, and interest, if:
  - a. the Supplier fails to comply in full, on time, or at all with any obligation arising under, or otherwise connected with, the Agreement, or it is established that any breach will be inevitable;
  - b. Koppert has good grounds to fear that the Supplier is or will be unable or unwilling to meet its obligations;
  - c. the Supplier has applied for a moratorium or insolvency proceedings, or been granted a moratorium or declared insolvent, or the Supplier proves to be insolvent;
  - d. the Supplier's business is wound up or the Supplier ceases its business operations;
  - e. a significant part of the Supplier's assets are made subject to an attachment order;
  - f. continuation of the business relationship with the Supplier will harm Koppert's reputation and image, or such harm is reasonably foreseeable;
  - g. in the sole judgement of Koppert, substantial changes are made to the balance of direct or indirect ownership or control in the Supplier's business.
- 15.2 If the Agreement is terminated, Koppert has no liability to pay any form of compensation. The Supplier must indemnify and compensate Koppert for any thirdparty claim arising from or in connection with such termination.

#### Article 16. Force majeure

- 16.1 In the event of force majeure affecting the Supplier, the Supplier will immediately notify Koppert in writing of the reasons for this and keep Koppert up to date with the developments.
- 16.2 If due to force majeure the Supplier is unable to comply with any of its obligations, Koppert is entitled to terminate all or any part of the Agreement by written notice having immediate effect, and without the need to first serve any warning or notice of default, or to obtain a court order, and without thereby being liable to pay compensation for any

loss or costs, or any benefit it has already enjoyed.

- 16.3 'Force majeure affecting the Supplier' specifically does not include the failure of the Supplier's suppliers to deliver on time or at all, whatever the reason.

#### Article 17. Liability and insurance

- 17.1 The Supplier is liable for any kind of loss suffered by Koppert, howsoever arising, that is a consequence of any breach of the Supplier's obligations under the Agreement including, but not limited to, obligations under guarantees as specified in Article 10, above, and for all loss caused by the Supplier, its personnel, any third parties it engages, or the goods or services it supplies at any time, to persons or property of Koppert or third parties.
- 17.2 The Supplier also indemnifies Koppert against any third-party claim arising from or connected with a situation as described in the preceding section. The Supplier will also compensate the reasonable costs of Koppert's defence of such third-party claims.
- 17.3 The Supplier will insure the drawings, materials, tools, etc., described in Article 9 against all risks, such as the risk of loss, theft, or damage, (for as long as the Supplier is deemed to be in possession of these things.
- 17.4 The Supplier must be adequately insured at all times against the liability as described in this article, including product liability, for loss to persons or to property belonging to Koppert.

#### Article 18. International agreements

Chapter 6.5.3 of the Dutch Civil Code applies to any agreement between Koppert and a Supplier not registered in the Netherlands.

#### Article 19. Jurisdiction and disputes

- 19.1 Any dispute arising between the parties from an Agreement, or from contracts derived thereunder, may be brought before the court with jurisdiction in Rotterdam.
- 19.2 All legal relationships between Koppert and the Supplier are governed by Dutch law. The terms of the United Nations Convention of the International Sale of Goods 1980 (the Vienna Sales Convention) are expressly excluded.