

**Royal Trade Association for Nurserystock and Flowerbulbs(Anthos)
TERMS OF SALE USA/CANADA**

- 1.1. These terms and conditions only apply to agreements with regard to which one of the parties is a member of Anthos at the time of conclusion of the agreement, which – within the framework of these general terms and conditions – is also deemed to include other partnerships who are (in)directly affiliated to an Anthos member company (e.g. sister company, subsidiary or parent company of the member).
- 1.2. If an agreement refers to these terms and conditions and this agreement only involves non-members, the terms and conditions below do not apply.
- 1.3. Furthermore, if an agreement refers to these terms and conditions while neither party is member of Anthos, the law and copyright law are violated.
2. Unless specifically otherwise agreed in writing, all products are sold FOB seller's warehouse Holland, and travel throughout at buyer's risk and expense.
3. If products are sold ex seller's warehouse, the cost of cases and packing and of phytopathological inspection, and of any freight, forwarding, insurance, export and import charges, shall be for buyer's account. These charges shall be due and payable on arrival of the goods at United States or Canadian port.
Unless otherwise instructed, the seller will arrange for ordinary sea transportation and for ordinary insurance coverage to destination.
- 3.1. Prices on the specified goods are exclusive of any city, state/province and federal/national taxes and any such taxes, whether or not existing at the time of the contract or thereafter, will be the responsibility of the buyer.
4. Payment shall be due sixty days (60) from date of invoice; two percent (2%) cash discount will be allowed for payment within ten days (10) after arrival of goods. Buyer agrees to pay interest at the rate of one and one half (1½%) per month on all outstanding balances after due date (60 days after date of invoice) together with any and all collection expenses. Ownership of goods is reserved until all obligations have been fulfilled.
5. If at time of shipment, the buyer's financial responsibility appears unsatisfactory to the seller, in seller's sole discretion, the seller may, at its option, cancel the order in whole or in part, provided that it shall promptly advise the buyer of any such cancellation; and the seller shall not be responsible for any damages whatsoever arising from such cancellation. The seller may also: cancel all other contracts with the buyer; recall goods in transit; change the terms of sale; and require payment before shipment, providing seller gives prompt advice of such action to buyer. The foregoing shall not be construed as limiting, in any manner, any of the rights or remedies available to seller pursuant to the laws of any state or province.
6. The seller warrants the goods to be sound and healthy at time of shipment but does not otherwise warrant flowering or other planting, growing or forcing results This warranty is in lieu of all other warranties, express or implied, including any warranty or merchantability or fitness for a particular purpose.

7. Total or partial failure of the general or of seller's crop, owing to frost, floods, or other natural causes, or loss of damage to seller's stocks by fire or any other cause beyond his control, preventing seller from fully performing the present and/or similar contracts, shall relieve the seller from his obligations under the present contract to a corresponding extent.
- 7.1. Seller may ship any portion of the contract when available for shipment, and payment for such portion of the goods as shipped shall be due in accordance with the terms of payment specified in the contract.
8. If an infection was latently present in the plant/flowerbulbs, this shall be considered a non-attributable shortcoming on the part of the vendor unless the buyer can demonstrate that a) the latent infection was the result of wilful conduct or gross negligence on the part of the vendor or b) the vendor was aware of this latent infection previous to the sale but, despite this, did not inform the buyer of this.
9. Seller is authorized to substitute for named varieties ordered provided said substituted material is of the same class and equal quality unless otherwise specifically agreed in writing or noted on the face of this order.
10. Whenever the terms of this order call for delivery f.o.b. any place or conveyance in the United States or Canada, the seller shall be required only to arrange for ordinary sea transportation and ordinary insurance to the point specified and the seller may, at his option, either prepay freight, insurance and/or other shipping charges, including import duty and arrange to collect same on delivery in a lump sum from the buyer, or the buyer shall pay all such charges from warehouses Holland until arrival at such agreed place or conveyance in the United States or Canada.
11. All claims hereunder shall be deemed waived unless presented within eight (8) days after receipt of goods. Claims relating to damage to or condition of goods shall be accompanied by Lloyd's survey report or its equivalent, stating full particulars. In case of non arrival of goods at destination within a reasonable time after receiving advice of shipment from Holland, buyer shall notify the seller by wire or cable.
12. Cancellation of this order in whole or in part by the buyer shall entitle the seller to recover either as and for liquidated damages a sum equal to 20% of the contract price (which sum is agreed as the estimated damage likely to result to the seller from such cancellation) or at the seller's option such damages as he then may be able to establish that he has, in fact, suffered by reason of such cancellation.
13. Prices are based on a rate of exchange of Euros to one U.S. and/or Canadian Dollar as set forth at on the day preceding the date of the contract and will be subject to automatic adjustment whenever the rate of exchange varies in excess of one percent.
14. These printed Terms of Sale cannot be altered nor departed from except by mutual consent in writing.
15. In the event of any dispute arising under this contract, the parties consent to the

jurisdiction of the courts of the Kingdom of the Netherlands and such disputes will be heard in Amsterdam; however, at the option of seller, seller may elect that such disputes be heard by the courts at the buyer's location. The parties further consent that any process, notice or other applications may be served by Registered Mail and that this contract shall be governed by and interpreted under the laws of the Kingdom of the Netherlands.

August 2005

(bijgewerkt en gecorrigeerd door STA)

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