

TERMS AND CONDITIONS OF SALE OF ALL GOODS BY EASON HORTICULTURAL RESOURCES, INC. ("Seller")

1. **ACCEPTANCE:** All Buyer's orders are booked subject to acceptance by Seller. Acceptance of an order by Seller constitutes a complete and binding contract governed by these Terms and Conditions, as amended/modified from time-to-time by Seller (the "T&C") and the laws of the State of Kentucky. Seller is not bound by any provisions in Buyer's purchase order or other document, if any, which may impose any term or condition at variance with the T&C. Seller's failure to object to provisions contained in such purchase order or other document, if any, of Buyer shall not be deemed to be a waiver of the T&C which shall constitute the entire contract between the parties.

2. **PAYMENT AND DELIVERY:** No discount may be taken unless specified on Seller's invoice. A finance charge as reflected on Seller's invoice will be computed on the past due balances and shall not exceed the maximum, permissible rate. Any delivery dates noted on Seller's order acknowledgment and/or Seller's invoice are subject to reasonable adjustment by Seller. Shipment or tender of delivery prior to receipt of written cancellation shall constitute good delivery. Charges for freight shall include freight, handling and other related costs and fees.

3. **IMPORTED GOODS:** In the case of imported goods, Seller will order such goods from a foreign exporter from whom it believes it can procure goods of good quality and will deliver such goods when received in the United States, f.o.b. port of arrival unless noted to the contrary on Seller's order acknowledgment and/or Seller's invoice. Bulbs and seeds will be shipped by the foreign exporter as early as possible after full ripening. In the event any such foreign grower or foreign exporter, because of partial or total failure or destruction of its crops, or for any other reason, fails or refuses to fulfill its contract(s) with Seller, without fault on Seller's part, the obligations of Seller to Buyer shall terminate. It is expressly understood and agreed that the actual receipt of the United States of the goods shall be a condition precedent to Seller's liability to deliver and the failure of the goods to arrive due to any cause or condition beyond Seller's control shall be sufficient excuse for nondelivery. In the event definite prices are not made, imported goods will be invoiced at a price that will allow Seller a reasonable importer's fee for doing the business and would cover the charges for United States tariff duties, insurance, transportation, and any other items necessary to obtain and secure the goods and Buyer agrees to pay such price upon delivery of the goods.

4. **DOMESTIC SEEDS, BULBS AND PLANTS:** With respect to seeds, bulbs or plants grown in the United States, Seller has contracted with a grower(s) to provide the kinds of varieties ordered by Buyer. In the event any such grower, because of partial or total failure or destruction of its crops, or for any other reason, fails or refuses to fulfill its contract(s) with Seller, without fault on Seller's part, the obligations of Seller to Buyer shall terminate and cease. All seeds, bulbs or plants shall be of standard grades for the current year. If because of shortage of crops or any other reason, Seller does not have sufficient goods of like nature and quality to those ordered by Buyer to enable Seller to fulfill all its orders for similar goods, then Buyer agrees to accept and pay for a share to be determined by Seller referencing the usual custom of seedsmen in the United States.

5. **TAXES:** Taxes attributable to the sale shall be paid by Buyer. In the event any special taxes, sales or occupation taxes or new or additional customs duties are levied by the United States or any jurisdiction of the United States, upon the goods ordered by Buyer or upon the sales of such goods, prior to delivery of Buyer's order then the prices set forth herein shall be advanced by Buyer to the extent of the increased cost caused hereby.

6. **CREDIT:** Seller reserves the right (at any time without notice) to limit or cancel the credit of Buyer as to time and amount and, as a consequence, may require payment by (A) cash before delivery, (B) cash payment of sight draft against Bill of Lading or, (C) cash on delivery. Seller may demand payment in cash before delivery of any unfilled portion of Buyer's order. In the event of breach or repudiation by Buyer or any guarantor of any obligation to Seller, or in the event of the commencement of any bankruptcy, insolvency, reorganization or arrangements proceeding with respect to Buyer or any guarantor, or in the event Buyer fails to pay, when due, any amount to Seller, or in the event Buyer or any guarantor becomes insolvent, or calls a meeting of its creditors, or makes any assignment for the benefit of creditors, Seller may, without liability, and without notice, cancel this and/or any other contract with Buyer. In the event of such cancellation, Buyer and each guarantor shall remain liable for damages and all amounts due Seller.

7. **CONTINGENCIES AND CLAIMS:** Seller shall not be liable for any embargo, shortage of cars, act of governmental authority, labor trouble, accident, riot, casualty, Act of God, fire, flood, war, disease or other condition or cause of like or unlike nature beyond the control of Seller which interferes with or affects any goods ordered by Buyer or the production, supply or transportation thereof. In any such event, Seller may, without notice to Buyer, postpone the delivery dates of any goods ordered by Buyer for a time, which is reasonable under all the circumstances, or make partial delivery or cancel all or any portion of this and/or any other contract with Buyer. Buyer must accept delivery of the goods regardless of any claim, but such acceptance shall be without prejudice to such claim. However, no claim may be asserted unless made in writing by Buyer to Seller within twenty (20) days after any defect in the goods or in Seller's performance becomes or should become apparent.

Seller's liability with respect to the goods sold to Buyer whether for breach of express or implied warranty or contract, defective goods, non-delivery, negligence or otherwise is strictly limited in amount to the lesser of the purchase price of such goods or Buyer's documented out-of-pocket loss, regardless of the nature or extent of the loss. In no event shall Seller be liable for incidental, consequential or special damages or for loss or damage to crops or for loss of profits. Buyer waives all warranties on merchantability, fitness or otherwise.

8. **SECURITY AGREEMENT.** To induce Seller to extend credit to Buyer and to secure payment and performance of all present and future obligations of Buyer to Seller (including future advances), Buyer grants to Seller a continuing security interest in all of Buyer's present and/or future equipment, fixtures, inventory, accounts, deposit accounts, accounts receivable, general intangibles and other personal property and the proceeds and products thereof. Seller is authorized to file of record all financing, continuation and amendment statements. Upon Buyer's default as to any of Buyer's obligations to Seller, Seller is authorized to exercise all of its rights and/or remedies under applicable law. Buyer will maintain all collateral in good condition and free of any encumbrance or lien superior to that of Seller. Buyer will not locate the collateral at any location not identified to Seller in writing and Buyer will promptly advise Seller in writing of any change of Buyer's name or business nature or location. Buyer expressly agrees to make payment in full to Seller for all purchases in accordance with Seller's invoice(s).

9. **ENTIRE CONTRACT:** The T&C and Seller's order acknowledgment and invoice contain all of the terms and conditions of the contract between Seller and Buyer with respect to the goods sold to Buyer and said contract cannot be altered or modified except in writing signed by Seller. There are no other agreements, conditions, expressed or implied warranties or representations with respect to the goods sold to Buyer. The T&C may be amended/modified from time-to-time by Seller and, as so amended/modified, shall be binding upon Buyer. Seller's then current T&C are set forth on Seller's website – www.ehrmet.com. Buyer's placing of any order and/or receipt of any goods acknowledges Buyer's acceptance of the T&C. To the extent permitted by applicable law, Buyer shall be responsible for all expenses (including legal and collection fees) incurred by Seller in enforcing the obligations of Buyer to Seller. The contract between Buyer and Seller shall be governed by Kentucky Law and any state court sitting in Kenton County, Kentucky shall have exclusive jurisdiction over any matter relating to that contract. In the event any provision contained in that contract should be judged to be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions shall not in any way be affected thereby. A fax, email or photocopy signature shall be considered the same as an original signature. The contract is confidential and, unless required by court order, shall not be disclosed by Buyer to any third party (Buyer to give prompt notice to Seller of any court order).

10. **REFERENCES:** Seller is authorized to contact any credit and bank references. Seller is also authorized to use any credit rating, credit investigation or credit reporting services. All such references and services are authorized by Buyer and each guarantor to disclose to Seller all information concerning Buyer and each guarantor in their possession. Seller is authorized to answer questions about its credit experience with Buyer and each guarantor and share this information with other parties which may provide financing for Buyer and each guarantor.

11. **OTHER:** Each guarantor agrees that the extension of credit by Seller to Buyer will benefit such guarantor and that there is good and valuable consideration received by such guarantor for such guarantor's execution, delivery and performance of any guaranty. Each guarantor assumes personal liability and responsibility for payment of Buyer's account and personally guarantees (jointly and severally without Buyer) payment of all invoices and all monies at any time due Seller by Buyer. The term of any guaranty shall not exceed twenty (20) years from the date hereof and the amount of any guaranty shall not exceed the lesser of \$300,000 or all invoices and monies at any time due Seller by Buyer. 4507247v2