

**Bylaws and General Terms and Conditions for Public and Private Sale
of the
Hobaho B.V. in Lisse, the Netherlands
August 1, 2006**

GENERAL PROVISIONS

Article 1

- a. Hobaho shall be understood to mean: the Hobaho B.V., established in Lisse, The Netherlands.
- b. Goods shall be defined as: dry flower bulbs and those standing in the fields and related articles, perennial plants, nursery products and other (decorative) agricultural products, inventories and other movable and real property as well as proprietary/property rights.
- c. Client shall be defined as: one who has given notice that he wishes to make use of the Hobaho as broker and intermediary or of a public sale to be organized by Hobaho.
- d. Perennial plants shall be defined as the decorative plants with regard to which the Hobaho has made the binding determination that they possess the traits of a perennial plant and to which the Trading Conditions for Nurseries in The Netherlands [*Handelsvoorwaarden voor de Boomkwekerij in Nederland*, hereinafter referred to as the *HBN* conditions] apply, subject to the exceptions relevant to said plants stated in Article 23 of these Bylaws.
- e. The Hobaho sells goods at public auctions on the orders of its clients. In these auction transactions the Hobaho itself acts as vendor.
- f. The Hobaho acts as broker and intermediary in the formation of private agreements in relation to goods, on the orders of those offering goods for sale as well as those seeking to buy them.
- g. The provisions of these Bylaws and General Terms and Conditions and any written additional provisions that may be made as well, particularly those included in catalogues, official records and purchase order confirmations, shall apply to all orders for public sale and for [services as] broker and intermediary as well as all agreements that arise by auction or by virtue of the services provided as broker or intermediary. The Trading Regulations for the Flower Bulb Trade, to the extent that they do not vary from these Bylaws and General Terms and Conditions, apply to all agreements with the exception of those with regard to perennial plants and nursery products. The agreements with regard to perennial plants and nursery products are subject to the Trading Conditions for Nurseries in The Netherlands, to the extent the latter does not vary from these Bylaws and General Terms and Conditions. Copies of the Trading Regulations for the Flower Bulb Trade and the Trading Conditions for Nurseries in The Netherlands are available at no charge to interested parties from the office of the Hobaho in Lisse, The Netherlands. The Trading Regulations for the Flower Bulb Trade [*Het Handelsreglement voor de Bloembollenhandel*] is also published on the website of the Royal General Association for the Production of Flower Bulbs [*Koninklijke Algemeene Vereeniging voor Bloembollencultuur (K.A.V.B.)*].
The Trading Conditions for Nurseries in The Netherlands [*De Handelsvoorwaarden voor de Boomkwekerij in Nederland*] are available for inspection on the website of the Council for Nursery Production [*Raad voor de Boomkwekerij*].

- h. Pro rata basis shall be defined as the allocation of the risk of non-payment on a payment date arising out of Article 8 of these Bylaws and the manner of calculation of the claims of the combined creditors in relation to the same payment date.
- i. All communications and recommendations of the Hobaho are provided in good faith and to the best of its knowledge. Clients remain responsible for the accuracy of the information they provide to the Hobaho in relation to the content of the transactions to be concluded and the settlement of administrative obligations with third parties. The Hobaho is not liable for this except in the case of intentional conduct or gross negligence. At the same time, the liability specified for this is limited to the amount that the Hobaho will receive on the basis of an insurance policy bound for the coverage of the liability referred to in this Article.
- j. If, pursuant to these Bylaws, the Hobaho establishes or amends a commission and an overhead charge it shall publish the resolutions in question in the trade publications, which in its judgment qualify to give such notice. These resolutions shall enter into effect on the fifteenth calendar day after publication, unless another later effective date of the commission amendment or overhead charge is stated in the publication.
- k. These Bylaws and General Terms and Conditions may be cited as the "Hobaho Bylaws".
- l. A copy of these Bylaws and General Terms and Conditions is published on the website of the Hobaho, www.hobaho.nl. A copy of these Bylaws is available for public inspection at the office on the Hobaho in Lisse, The Netherlands. A copy of these Bylaws and General Terms and Conditions will, upon request, also be sent at no charge to any interested party.

ORDERS

Article 2

The Hobaho is entitled to:

- a. accept orders to auction entirely or in part and/or refuse same;
- b. refuse to allow individuals to participate as vendor in the public auctions;
- c. refuse individuals access to the places where public auctions take place;
- d. accept orders to act as broker and/or intermediary entirely or in part and/or refuse same.

Article 3

- a. Orders for public sale and/or orders to act as broker and/or intermediary are not required to take any specific form. Written confirmation of the order or cancellation of it by the Hobaho serves as complete proof. In the absence of this, any other evidence shall be allowed. An order for public sale is deemed to have been made in the event that the goods have been brought into the auction buildings or onto the premises of the Hobaho or if the board or person authorized by the Hobaho is admitted to the premises of a client to number the goods.

- b. An order for public sale and/or order to act as broker and/or intermediary entails that the Hobaho, with the exclusion of the client and every other, shall be entitled to sell or buy the goods referred to or indicated with the order or conclude other agreements with said goods.
- c. Orders accepted by the Hobaho may be split upon performance, both as to species and as to quantities.
- d. An order to provide services as broker or intermediary also entails that the Hobaho shall be entitled – solely to prevent a pro rata allocation in the absence of the timely provision of security by a client - to terminate or suspend agreements or make further arrangements with regard to them.e. Upon acceptance of an order the Hobaho can provide no guarantee that the order can be carried out. Any such liability on the part of the Hobaho is excluded, unless the failure of an agreement to be concluded is a consequence of the intentional or grossly negligent conduct on the part of the Hobaho. Client(s) indemnify the Hobaho completely for all liability that third parties might attribute to the Hobaho in the matter of obligations that exist or are assumed or arise from rules imposed by any authority pursuant to the order made by the Hobaho.

Article 4

Orders for public sale and for brokerage and intermediary services shall terminate by:

- a. cancellation by the Hobaho;
- b. written cancellation of the order by a client;
- c. the absence of permission from the management board of the Hobaho as a condition precedent for the formation of agreements after an order for brokerage and intermediary services has been made;
- d. fulfilment of the order.

In the event that the Hobaho provides brokerage and intermediary services, an agreement arises between clients only after the management board has granted its approval for the agreement in question. Such approval is deemed to have been granted if the Hobaho management board fails to provide the clients with written notice, within seven working days after the date stated on a sale confirmation within the meaning of Article 23 of these bylaws, that the relevant agreement cannot take place.

Parties may partially cancel orders. Upon resort to this possibility the order or the non-cancelled portion thereof shall remain in effect between the Hobaho and its client(s). If the order is cancelled on the basis of circumstances attributable to the client, the mere fact of the cancellation shall entail that the client owes the Hobaho a penalty, due upon demand, in the amount of 5% of the monetary value of the cancelled order, notwithstanding the right of the Hobaho and/or third parties to claim full compensation. All legal acts of the Hobaho undertaken in the fulfilment of orders prior to its receipt of the written cancellation shall fully bind the client.

Article 5

With regard to orders made by two or more individuals and/or legal persons acting together, the Hobaho is entitled, at its choice, to complete the orders, to send settlement notices and make payment (setoff included hereunder) to each of the collaborating persons for a part or to one of them for the full

amount, in which cases of settlement and payment the Hobaho will have complied with and properly discharged its obligations as to all clients.

In the event that orders are made by two or more individuals and/or legal persons acting together and, after making the orders this collaborative venture is converted into a new legal entity, the original clients shall remain, in addition to the newly established legal entity, jointly and severally liable for the obligations which are assumed and/or ratified by said legal entity. Those having jointly assumed obligations to the Hobaho are jointly and severally liable for the obligations undertaken by them, both the principal obligations as well as any ancillary obligations, such liability being that with respect to the Hobaho as well as to third parties, to the extent that the latter may have any rights. The one who, as representative of a third party, makes purchases at a public auction organized by the Hobaho and/or gives the Hobaho an order for brokerage or intermediary services, guarantees and is jointly and severally liable with his principal for the obligations assumed toward the Hobaho.

COMMISSION AND OVERHEAD CHARGE

Article 6

Hobaho is entitled to a commission on the proceeds of all public sales it organizes or on all agreements arising out of its services as broker and intermediary, in which context each client involved in an agreement that has been concluded owes the full commission separately and owes the full commission on his own account which shall be calculated on the basis of the percentage publicized by the Hobaho pursuant to Article 1 sub j. of these Bylaws.

The proceeds over which commissions shall be calculated shall be defined as the gross consideration which must be sold publicly under the terms of the order or as apparent from the written confirmation referred to in Article 23 of these Bylaws by virtue of which an agreement has been formed between the parties, on the understanding that when in fact more is supplied than has been recorded in a private agreement between the parties involved, a commission shall also be due over the additional product supplied. In addition to commission, upon formation of an agreement clients shall owe an overhead charge to be determined by the Hobaho, the amount of which shall be published by the Hobaho pursuant to Article 1 sub j of these Bylaws in one or more of the trade publications which, in its judgment, qualify to give such notice.

Whenever, as a consequence of any variance in the fulfilment of an agreement, the ultimate amount payable by the client(s) in relation to the value of the of the original performance to be provided pursuant to that agreement has been subject to change, the commission on the difference shall remain due and payable to the Hobaho. Commissions shall remain due as well in the event that an order for public sale or any private agreement arising due to the brokerage or services as an intermediary is not complied with, or when any agreement that has been concluded is declared to have been dissolved. In the event of an agreement that is not performed, Hobaho is entitled to charge the total amount of the commission it lost due to such failure to the client to which the failure of the agreement may be attributed or to the client who bears the risk of such consequences, For goods that are definitively relinquished, yet not for those goods that are supplied or withdrawn, or goods detained during a public sale organized by the Hobaho, the clients owe expenses calculated in accordance with the percentages of the value of the goods to be determined by the Hobaho. The

value of goods that receive no bid in a public sale organized by the Hobaho shall be subject to a binding appraisal for the client(s) conducted by the Hobaho.

The goods that receive no bid, described above, may not be sold by the client as long as they are located in the buildings or on the premises where the public sale organized by the Hobaho is held. If the client violates the above prohibition he shall owe the full commission on the value of the goods involved.

SALES TAX AND OTHER OBLIGATIONS TO THE GOVERNMENT

Article 7

All prices, commissions and the like are set exclusive of sales tax. Clients are obligated to provide to the Hobaho in a timely manner the information required for the administrative processing and calculation of the sales tax on the agreements concluded by the Hobaho. The Hobaho itself owes no VAT by virtue of the sales or contract cultivation agreements concluded for its clients or for any other kind of agreements and it merely provides the invoices, including VAT for its clients. The Hobaho is never liable to its clients for the administrative processing of their VAT obligations, except in the event of gross negligence on its part. Clients shall guarantee the accuracy of the information they provide to the Hobaho which is necessary for the administrative calculation of the VAT to be paid or reclaimed and shall hold the Hobaho harmless for any liability to any third party and the tax authorities. Clients shall undertake on the basis of these General Terms and Conditions to pay on the first request of the Hobaho those amounts that the Hobaho has had to deduct on behalf of those clients in the context of any imposition of VAT. If the Hobaho pays out VAT, such payment shall occur exclusively as an advance, with the right to reclaim this advance at any time if it should appear that the VAT in question was erroneously paid by the Hobaho.

In the context of agreements formed, the Hobaho is not liable to clients for the deduction of funds withheld on behalf of bodies governed by public law, which amounts are withheld by the Hobaho pursuant to governmental regulations, even though it may be evident after the fact that those regulations are not legally valid or binding.

PAYMENTS

Article 8

All payments in the matter of agreements with or arising out of the brokerage or intermediary services of the Hobaho, including those of the clients, can exclusively be made to the Hobaho in a legally valid manner without suspension or set off, and only the Hobaho is entitled to grant discharge. Direct payment to a client shall not discharge the party making payment, and the Hobaho retains its right to hold the relevant debtor/client liable for payment.

Payments shall first apply to payment of the commission and other amounts to which the Hobaho is entitled, such as payment for the use of packing and packaging materials; they will then apply to the payment of penalties, expenses and interest and finally, to the payment of debts, whereby the oldest debt shall be deemed to be the first to be paid.

All that the Hobaho shall be able to claim in the matter of sale amounts or on the basis of agreements by virtue of another legal basis, all commissions, penalties, expenses and interest shall be due and payable no later than the dates set forth below in accordance with the schedule below, unless the Hobaho prescribes or has agreed otherwise pursuant to the written confirmations as referred to in Article 23 of these Bylaws:

I a. For flower bulbs and related articles:

If actual delivery has taken place:

from June 1 through August 14: on the first following November 1, on the understanding that a percentage of the amount due stated in the Trading Regulations for the Flower Bulb Trade must be paid as a due and payable advance on September 15 prior to the payment date;

from August 15 through September 30: on the first following November 1;

from October 1 through December 14: on the first following January 15;

from December 15 through January 31: on the first following March 1;

from February 1 through March 31: on the first following May 1;

from April 1 through May 31: on the first following July 1.

I b. For nursery products and perennial plants:

If actual delivery has taken place:

from June 1 through August 14: on the first following September 15;

from August 15 through September 30: on the first following November 1;

from October 1 through December 14: on the first following January 15;

from December 15 through January 31: on the first following March 1;

from February 1 through March 31: on the first following May 1;

from April 1 through May 31: on the first following July 1.

II. In the case of public sale of crops standing in the field and of materials, the payment date is determined per auction. If no payment date has been fixed upon auction, the payment date shall be November 1 of the year in which the relevant auction was held.

III. In concluding a private transaction, in consultation with the Hobaho the client can fix a payment date other than that referred to in I a. and I b. of this Article. If the Hobaho and clients have agreed to a payment date at variance from that in the sense as described above, Articles 10 parts a, b and c as well as Article 11 of these Bylaws shall not apply and the clients in question shall themselves bear the risk of non-payment, without any right to claim a payment pursuant to the rules for apportioning the costs.

IV. If clients agree to contract cultivation, Article 10, parts a, b and c as well as Article 11 of these Bylaws shall only apply if, in the context of that contract cultivation agreement it has been expressly agreed that the compensation to be paid by the client / the one making the contract is to be paid in multiple instalments, whereby the last thereof may not exceed the aggregate of the prior instalment(s). If a contract cultivation agreement satisfies the above-described conditions of payment in multiple instalments and a maximum amount of the last instalment payment as described above, the rules for apportioning the costs under Article 10 of these Bylaws and the General Terms and Conditions shall apply exclusively on the payment date of the last

instalment payment and that apportionment shall pertain to the whole of the originally agreed compensation for the contract cultivation.

- V. For payment made prior to the due date of the payment, an interest payment - to be determined by the Hobaho on a case-by-case basis - can be permitted.

The agreed payment dates cannot be changed without the cooperation or approval of the Hobaho.

PAYMENTS

Article 9

- a. Fifteen days after a payment date referred to in Article 8, the aggregate of the creditors at Hobaho receive a claim for payment in the amounts to be received on that same payment date from the aggregate of the debtors, on the understanding that the risk of non-payment is allocated as described in Article 10 of these Bylaws.

Hobaho is entitled to make payment prior to a date on which the claim of the (aggregate of the) accounts payable become due and payable, subject to deduction of an interest payment due to early payment, on the basis of a percentage per month or part thereof to be fixed by the Hobaho. The claims of a creditor within the meaning of this Article are deemed to form a whole of all obligations that he has or assumes with regard to the Hobaho on whatever basis. The Hobaho is entitled in each case to settle the debt claims that appear from its records, even though they may be due and payable on different payment dates, notwithstanding the creditor's right to payment of interest. Transfer of existing and future claims against the Hobaho can not take place otherwise than as subject to settlement against, and retention of, all rights of the Hobaho that ensue from these Bylaws or any further provisions made. In the event of disputes in regard to the agreements concluded between the clients and/or the performance thereof, the payment by the Hobaho can be suspended until a definitive decision has been made by the court (of arbitration) about the dispute in question, or until the parties have concluded a settlement agreement and the Hobaho has received written notice of the contents of the relevant settlement agreement. Amounts paid by clients to the Hobaho shall, during the period that a dispute has not been settled or resolved in the sense described above, remain in the custody of the Hobaho.

If the Hobaho pays out VAT, such shall be done exclusively as an advance subject to the right to reclaim this advance at any time if it should appear that the VAT in question has been erroneously paid out by the Hobaho.

- b. In the event that a client/vendor has remained in default of having given the Hobaho written notice within eight days after the actual delivery of the goods (sold) has taken place, the Hobaho can, at variance from the provisions of sub a above, suspend the right to payment of the relevant client/vendor until fifteen days after the first payment date following the payment date which would apply on the basis of Article 8 of these Bylaws by virtue of the actual delivery

of the goods sold. The Hobaho is not liable for any damage incurred by the client/vendor as a consequence of the suspended payment described in this Article. In the event of suspension of payment within the meaning of this Article, only the suspended payment date and the payment date ensuing from these Bylaws shall apply for the purposes of the allocation of the risk of non-payment as described in Article 10 of these Bylaws and the effecting of a pro rata allocation within the meaning of Article 11. This paragraph does not apply to *Hobaho Daghandel+*.

- c. The client/creditor whose claim is not paid by the Hobaho, is obligated upon the first request to subrogate the Hobaho as to all rights that it can enforce against the buyer and/or the opposing party, as the case may be.

Clients shall grant the Hobaho irrevocable authorization to give notice of the [right of] subrogation as described above within the meaning of Article 6.150 part d BW [The Dutch Civil Code] to third parties.

RISK OF NON-PAYMENT

Article 10

Non-payment for the purposes of these Bylaws is defined as when the Hobaho does not receive, or does not timely receive payment of any part of all which, pursuant to Article 8, must be paid to the Hobaho on a date stated in the Article mentioned above such that the Hobaho can not grant discharge for that portion [of what is due].

The Hobaho is not liable for non-payment and shall not participate therein. The risk of non-payment is born by the creditors referred to in Article 9 as per the payment date stated in Article 8 of these Bylaws and allocated as follows:

- a. Creditors from auctions and from the private sale of dry flower bulbs and flower bulbs still standing in the fields and related articles, and creditors from contract cultivation agreements with regard to flower bulbs, with the exception of the goods referred to below under b, c and d, and creditors that have concluded an agreement subject to the conditions as stated in part e of this Article, shall bear the risk of non-payment among themselves on a pro rata basis for amounts for which the same payment date has been established as referred to in Article 8.I and II.
- b. Creditors from auctions and from private sales or contract cultivation of nursery products and perennials shall bear among themselves pro rata the risk of non-payment of purchase amounts or contract cultivation compensation amounts for which the same payment date has been established as referred to in Article 8.Ib.
- c. Creditors from auctions and from private sales or contract cultivation of agricultural non-decorative products such as, for example, edible onions, pearl/cocktail onions, onion sets, seed potatoes, potatoes for the retail market and Belgian/French endive roots, shall bear among themselves on a pro rata basis the risk of non-payment of sale amounts or contract cultivation

compensation amounts for which the same payment date has been established as referred to in Article 8.1a and b.

- d. Creditors from auctions and from private sales of crops or goods other than those mentioned above in parts a, b and c of this Article, as well as creditors from agreements other than sales agreements and contract cultivation agreements, shall themselves bear the risk of non-payment and can not make any claim on the basis of the rules for apportioning the costs as described in Article 11 of these Bylaws.
- e. The risk of non-payment of a claim of a creditor that has concluded an agreement on the basis of which the delivery and payment dates do not tie in and connect with each other as described in Article 8.1a and b of these Bylaws, is born by the relevant creditor himself even if a payment date has been agreed as referred to in Article 8 of these Bylaws.

In the case of claims within the meaning of this paragraph e, the period of time between delivery and payment date exceeds the maximum periods as stated in Article 8.1a and b, so that the rules for apportioning the costs as referred to in Article 11 of these Bylaws is without application.

ALLOCATION OF COSTS

Article 11

If in the opinion of the Hobaho it is certain that non-payment necessitates a pro rata allocation of costs, the financial settlement takes place as follows:

1. The Hobaho will notify the risk-bearing creditors as soon as possible that an allocation of cost will have to take place. Such a notification can also be made after a full payment of an exchange has taken place.
2. The [cost of an] amount not received by the Hobaho as a consequence of non-payment on a date referred to in Article 8 is allocated on the basis of the non-paid sale amount of the goods sold and delivered or in the case of contract cultivation, the portion remaining unpaid of the agreed contract compensation amount, prior to deduction of costs less VAT and trade organization fees. Sale amounts for goods or compensation amounts from contract cultivation agreements, which are receivables, owed to clients that have failed to comply with their obligations to the Hobaho, shall not be considered in the determination of the cost allocation basis. In the determination of the cost allocation basis, the creditors bearing the risk cannot appeal for any setoff against or suspension as to a claim against the Hobaho and/or other risk-bearing creditors.
3. The Hobaho will determine the percentage of the cost allocation and notify the risk-bearing creditors as quickly as possible.
4. If the Hobaho has made payments which appear, after the fact, to have been higher than the amount to which the creditor is entitled after application of a rule for allocation of costs within the meaning of this Article, the creditor in question shall be required to refund the excessive amount

received upon the first request of the Hobaho, subject to the obligation to pay a percentage of interest equal to the legal interest on the excess amount as from the eighth day after the Hobaho has claimed a refund thereof.

5. If rules for the allocation of costs within the meaning of this Article must in its opinion be applied, the Hobaho shall have the determination of the amount of the non-payment, expressed in monetary terms, and the settlement of the cost allocation be audited by its registered accountant, who shall set forth the result of his findings in a written report.

TERMINATION

Article 12

In all cases in which the client, or the person with which the client has concluded an agreement is in default - pursuant to the order it has made - of any obligation ensuing from that agreement or from these Bylaws, the Hobaho is authorized, in order to prevent an allocation of costs within the meaning of Article 11, to terminate the agreement in question by means of a written statement or, by means of assumption of the contract, to take the place of the original client, without being bound to make any compensation for damages to the parties involved in the terminated and/or assumed agreement. In the event of termination of an agreement within the meaning of this Article the Hobaho can, with regard to the goods or portion thereof involved, conclude a new public or private agreement, at its choice. In the event of an assumption of the contract, the Hobaho itself assumes the rights and obligations of the client in default, while the other client involved in the agreement remains bound to perform all obligations that it had to the original client as regarding the Hobaho.

COLLECTIONS AND SECURITY

Article 13

In the event that the client fails to comply with any obligation pursuant to these Bylaws and these General Terms and Condition or imposed upon him by further agreement, the Hobaho is entitled to demand immediate and full payment of all that the client owes it on any basis whatsoever. In order to prevent an allocation of costs within the meaning of these Bylaws, the Hobaho is authorized to require that its clients/debtors allow it to examine all relevant financial documents such as financing agreements, annual financial reports and accounts and cash budgets, to which examination the clients shall be obligated to grant their cooperation. Also, in order to prevent an allocation of costs, the Hobaho is authorized to require of its clients/debtors whatever bond would, in the opinion of the Hobaho, constitute adequate security for the fulfilment of their obligations, which security these clients shall be required to post upon the demand of the Hobaho. The costs in connection with the posting of security shall be for the account of the client.

Even after security has been posted, clients/debtors shall be obligated, upon the first demand of the Hobaho, to post additional security, as a result of which performance of the obligations assumed is guaranteed. If, pursuant to an order made by the Hobaho a public sale is made, the Hobaho expressly retains title to the goods involved until the purchase price thereof, plus costs, interest and penalties have been paid in full by the buyer(s).

If an agreement is concluded pursuant to an order given to the Hobaho for it to provide brokerage and intermediary services, the client/vendor and/or the client/contract grower shall expressly retain the title to the goods to be delivered, and transfer of [title to] the goods shall only take place under the condition that the financial consideration to be provided, including any costs, penalty and interest, has been paid in full to the Hobaho. Until the condition of payment to the Hobaho has been fulfilled, the risk of any decrease in the value of the goods, plant disease or destruction as well as the risk of damage in the broadest sense of the words, shall be for the account of the party to which, after the fulfilment of the condition of payment described in this Article, transfer of the goods involved shall take place.

As long as the title to the goods supplied has not transferred to the client/buyer and/or the client/contracting party, these goods may not be pledged nor shall any third party be granted any other right to them. As to goods supplied, the title to which has transferred to the client/buyer and/or the client/contracting party by payment and which goods are still in the possession of the latter, the client/vendor and/or the client/contract grower shall hereby retain, now for then, all rights as referred to in Article 3.237 BW as additional security for claims, at variance from the rights referred to in Article 3.92 part 2 BW, which the client/vendor and/or the client/contract grower may have against the client/buyer on any legal basis whatsoever.

The order to the Hobaho to act as broker and provide intermediary services entails an irrevocable authorization to the Hobaho on the part of the client/vendor to immediately undertake all measures, including legal measures, to demand return of goods not paid for in accordance with Article 8 of these Bylaws, notwithstanding the obligation of the client/vendor himself to enforce his property rights. If, in the case of a private agreement arising through the brokerage and intermediary service of the Hobaho, the latter has paid out the purchase price and/or financial consideration on the basis of Article 9 of these Bylaws, the order for brokerage and intermediary services also entails an irrevocable mandate and authorization to resell the goods repossessed by the client/vendor on the basis of his retention of title and apply the proceeds thereof against the claim that the Hobaho has according to Article 8 and 15 of these Bylaws by virtue of the transaction concluded between the client/vendor and client/buyer involved.

If the client/buyer and/or contracting party fails to perform his obligation to pay the Hobaho or the client/vendor has reason to fear that he will fail to do so, the vendor/client shall be entitled to repossess the product supplied subject to his retention of title. After repossession the client/buyer and/or contracting party will be given credit for the market value of the goods repossessed, which value shall in no case exceed the original purchase price and/ or contract price, as the case may be, less the costs in connection with the repossession of the goods.

PACKING AND PACKAGING MATERIALS

Article 14

Deleted

INTEREST, PENALTIES AND EXPENSES

Article 15

In the event that clients fail to pay what they should pay the Hobaho on the day the obligation ensuing from Article 8 of these Bylaws is due and payable, they are in default, without the requirement of any order or any other form of notice thereof. From the moment the amount due from the client to the Hobaho becomes due and payable, the Hobaho is due interest equal to the percentage of statutory commercial interest as described in Article 6.119a BW on the amount remaining unpaid until the date of payment. In addition, the client in default owes the Hobaho a penalty of 15 % on the amount not paid to the Hobaho in accordance with Article 8 of these Bylaws on the relevant payment due date.

If the Hobaho deems it necessary to call in legal assistance for collection of its claim or in relation to a dispute with or between/among its clients, it is authorized to charge the costs thereof to its client/opposing party.

If, in the context of a financial settlement, the Hobaho deems it necessary to submit any dispute between/among clients to a(n) (arbitral) tribunal for resolution, the Hobaho is authorized to charge the costs it incurs for legal assistance and filing fees to that/those client(s) that receive (s) a definitive adverse (arbitral) court ruling.

The legal expenses to be incurred by the Hobaho pursuant to this Article amount to a minimum of 15 % of a principal amount to be collected of less than €10,000.00 and 10 % of the amount to be collected in the event that the principal amount exceeds €10,000.00, on the understanding that in any case there shall be a minimum of €1,000.00 due in expenses.

DISPUTES

Article 16

All disputes, with the exception of those with regard to perennials and nursery products, which may arise between/among the Hobaho and its opposing parties or between clients among themselves from orders made to the Hobaho and as a consequence of agreements concluded by or through the brokerage services of the Hobaho, shall be resolved by the Arbitration Tribunal created by the Royal General Association for the Cultivation of Flower Bulbs in Hillegom (*Koninklijke Algemeene Vereeniging voor Bloembollencultuur*, hereinafter referred to as the KAVB), provided that:

- a. one of the clients was a member of the KAVB at the time that the agreement at issue in the dispute was concluded;
- b. if a non-member of the association described above under a is party to an agreement under dispute, that non-member was resident of or legally registered in the Netherlands at the time the agreement was concluded;
- c. if a non-member is party to an agreement in dispute, the claim is brought by the member, as claimant, against the non-member, unless it pertains to a counterclaim that relates directly to a claim brought by a member against a non-member, in which case such a counterclaim brought by a non-member will be resolved by the arbitration court as well;
- d. no ability to appeal has been reserved.

A client that is not a member of the KAVB can bring a claim in the matter of an agreement in dispute or a further agreement against a member of the KAVB before the civil court competent to hear the case, unless the member has previously filed a claim in the matter of that agreement or further agreement with the Arbitration Tribunal for the Flower Bulb Trade. The civil court is just as competent to hear a counterclaim to be brought by the member that directly relates to the claim brought by the non-member.

Disputes that ensue from agreements in relation to perennials and nursery products shall, to the exclusion of the civil court, be resolved by the Dutch Arbitration Court for Nurseries (*Nederlands Scheidsgerecht voor de Boomkwekerij*), with its registered offices in The Hague.

Article 17

In the event that the Arbitration Tribunal for the Flower Bulb Trade, referred to above in Article 16, is not competent in a dispute between the Hobaho and its contractual opposing party or among clients, only the absolutely competent court in the district of Haarlem shall have jurisdiction in the dispute involved. As long as the dispute has not been decided definitively, whether by mutual agreement or by a ruling of a(n) (arbitral) court, the Hobaho is authorized to suspend payment and/or claim repayment of payments it has made, notwithstanding the debtor's obligation to pay.

PUBLIC SALES

Article 18

The Hobaho sells by auction in its own name as vendor by Dutch auction [to the highest bidder].

Article 19

The goods to be sold at auction shall, as much as possible, be included in a catalogue by [lot] numbers. The Hobaho is entitled at auction to combine two [lot] numbers or to split them.

Article 20

The auction clients are required to ensure that all of the information necessary for the organization of the auction is made available to the Hobaho prior to a date to be determined by the Hobaho.

Article 21

Auctions take place subject to the following stipulations:

- a. The Hobaho reserves the right to the first and second word of the Dutch auction.
- b. The Hobaho is entitled to refuse every offer or every bid, not to concede the goods auctioned to the highest bidder or buyer even if the latter has been issued an invoice or proof of purchase,

and to hold up [lot] numbers or leave them unsold, all without providing any reasons and without being obligated to make any compensation for damages.

- c. In the event that the auctioneer makes a mistake, or multiple persons simultaneously may have made bids, or - due to mechanical or electronic failures or in any other manner - in the judgment of the Hobaho there may be uncertainty as to the assignment, no transaction shall take place and the [lot] numbers in question can be brought to auction once more, all in the manner to be determined by the Hobaho and without the latter being able to be held liable in any way, even though the goods have already left the buildings of the companies.
- d. In the event that a buyer can show immediately and to the satisfaction of the auctioneer that he was mistaken as to the [lot] number of the goods auctioned, the auctioneer can cancel the agreement formed and bring the [lot] number to auction once more.
- e. As soon as the goods have been shipped in the Hobaho is entitled, at its choice, to sell them publicly or privately.
- f. Except in the case of gross negligence and [ordinary] negligence on its part, the Hobaho accepts no liability for goods supplied or stored on its premises or in its buildings, nor for the processing thereof by its personnel, all damage that may arise to or due to those goods remaining for the risk of the client to auction and/or buyer to the extent that the Hobaho has not assumed this risk.

The assumption of any risk takes place through the Hobaho concluding an insurance agreement for that risk, and extends no further than the coverage that that agreement provides.

The handover of goods located in the buildings or on the premises of the Hobaho is done exclusively by the personnel of the Hobaho.

- g. In the event that an order by the Hobaho is cancelled or withdrawn by the client, that client is obligated pick up the goods supplied to the Hobaho within 24 hours after the cancellation or withdrawal, notwithstanding the right of the Hobaho after the expiration of said period to have the goods delivered back to the client at the client's expense.
- h. With the exception of stipulations as stated in the catalogue or orally by the auctioneer before the opening of a [lot] number is made known, goods are auctioned as they are.
- i. The Hobaho reserves the right, vis-à-vis clients, also in those cases when, pursuant to the provisions of these Bylaws or by virtue of additional special provisions – including the stipulation it imposes itself that goods be auctioned “as they are” and the stipulations that the client has itself imposed upon delivery in order to auction – it is not bound to do so, nevertheless on the grounds of fairness, the judgment of which is exclusively that of the Hobaho, to forgo an appeal to the conditions or provisions in question, and accept the claims.

If the Hobaho considers there to be terms present to apply the previous paragraph of this part, whatever the Hobaho may decide shall bind the client in his relationship to the Hobaho and the

opposing party, also in the event that the Hobaho decides to terminate the entire sale or part thereof and/or to fix compensation for damages or make any arrangement. The client is bound to reimburse to the Hobaho the amount of compensation for damages and the purchase price already received or other compensation.

If a buyer at a public sale organized by the Hobaho, including any auction of crops standing in the field, should happen to receive an arbitral award or other judgment against the Hobaho in the matter of a sale, in order to be able to publicly sell and/or auction, the client shall hold the Hobaho entirely harmless for the financial obligations that will ensue for the Hobaho from such a judgment.

- j. The Hobaho shall settle any possible complaints/claims as quickly as possible without however being bound to any time period. If the complaint results in the goods being returned to the Hobaho, the latter shall notify the client of the receipt of the goods as soon as possible. The Hobaho is entitled to bring the goods involved to auction once again or to destroy them, unless the client auctioning the goods has picked up the goods from the Hobaho within three days after notice was given.
- k. The Hobaho is not liable for differences between the auctioned quantities, sizes, weights and actual quantities, sizes and weights of the goods present. In the event of any difference the purchase price shall be increased or decreased proportionately. Differences must be ascertained at the time that the goods leave the buildings or premises where they were located at the time of the auction. In the case of differences that are ascertained later, the Hobaho is free to either deal with the complaint or not to do so. In all cases the parties shall be bound to the decision of the Hobaho.
- l. Auctioning on the basis of a sample is permitted in the event that the sample present can provide a clear picture of the goods to be auctioned; this to be at the discretion of the auctioneer. Until the buyer has accepted the goods the sample shall remain at the disposal of the Hobaho. All goods sold on the basis of samples must be delivered, cost of transport paid, within a period to be determined by the Hobaho in each case, to an address indicated by the Hobaho, failing which the Hobaho is entitled to still demand performance or termination and damages. In the case that the buyer, within three days after receipt, lodges the complaint with the Hobaho that the goods delivered do not meet the requirements of the sample, the Hobaho shall rule in the highest instance about whether there is basis for the complaint. If the Hobaho considers the complaint to be well founded, it can terminate the purchase entirely or in part, or can reduce the purchase price in all fairness. If there is reason to do so the Hobaho can also grant the buyer compensation for damages, to be determined by the Hobaho, payable by the client.
- m. The clients auctioning goods shall guarantee to the Hobaho the authenticity of their plant varieties, and the health, quantity, size and weight of the goods offered for sale.
- n. Everything sold is for the account and risk of the buyer immediately after having been assigned to the buyer. The goods must be received immediately after the close of the auctions against submission of the documents and at the times required and indicated by the Hobaho. Transportation to the buyer's address and packing can be done by the Hobaho, without

payment of transport, for the account and risk of the buyer. Goods not picked up, or those which in the judgment of the Hobaho are not picked up on time, can be sold publicly and privately by the Hobaho for the account of the buyer without the necessity of any warning or notice, in which case the buyers are deemed to act as clients selling goods.

- o. Clients may, upon delivery for auction, provide written minimum prices. These prices will be considered recommended prices for the auction only once. Minimum prices provided that exceed the market value are not binding on the Hobaho.
The Hobaho will take the prices provided into account to the extent possible, but is not liable for lesser proceeds.
- p. In the event that in the judgment of the Hobaho diseased or unsaleable goods are offered for auction, the Hobaho is authorized to return them to the client on behalf of and for the account and risk of the latter or to destroy those goods, notwithstanding the liability of the client for damage arising from contamination from the goods of buildings, packaging and packing materials and other goods.

Article 22

In addition to the conditions stated in Articles 18 through 21, to the extent applicable, the following conditions also apply for auction of crops standing in the fields and other goods that are not located in the buildings of the Hobaho:

- a. The clients are obligated to grant their complete cooperation in the auctions taking place at the times to be determined by the Hobaho. Furthermore they are obligated to allow the management board of the Hobaho and the persons it indicates, as well as interested parties access to the plots and in the buildings where the goods to be sold are located.
- b. In the cases in which it is not possible for the client auctioning goods to perform all or part of his duty to deliver, on the basis of circumstances which in the judgment of the Hobaho constitute force majeure, the Hobaho can terminate all or part of the agreement concluded and the buyer is not entitled to any performance or compensation of damages to the extent that the sale has been terminated. In the case of partial termination of a sale agreement on this basis, the Hobaho determines the amount to be paid by the buyer on the basis of information available to it and in the absence thereof, on the basis of what is fair and reasonable.
- c. All goods sold are, from the moment of assignment in the auction, for the account and risk of the buyer, without any recourse against the Hobaho or the client auctioning goods, which latter person is however obligated, in the case of crops standing in the field, to maintain them and care for them as a reasonable grower until they are harvested, which must occur in a timely manner in accordance with the requirements of the crop in question.
- d. Title to the crops transfers at the time they are dug and lifted, notwithstanding the provisions of Article 13 of these Bylaws.

- e. The digging and lifting of the crops shall, subject to written permission of the Hobaho, occur on the days to be determined by the Hobaho, to be published in the trade publications or communicated in writing directly to those involved. If the buyers of the crops standing in the field remain in default in any manner in relation to any obligation on the basis of a sale agreement or provision of these Bylaw, the Hobaho is entitled to have the bulbs dug and lifted and stored for the account and risk of the buyers, or to take the bulbs itself, notwithstanding the obligation of the buyers to pay the purchase price and expenses, or to terminate the sale agreements and/or declare them void, and/or to deem them to be void, all subject to the consequences as provided in these Bylaws and Terms and Conditions.
- f. Upon auction of crops standing in the field every complaint/claim is excluded, except the possibility of application of Article 21 i.
- g. Upon digging and lifting the Hobaho is entitled to conduct an inspection.

PRIVATE AGREEMENTS

Article 23

As a rule a written confirmation is made of every private agreement that is concluded through the brokerage and intermediary services of the Hobaho. A written confirmation within the meaning of this Article is defined as any confirmation written by hand or machine or sent by electronic means. The Hobaho and its clients state each on their own behalf and jointly that Articles 6:227 a and b BW do not apply to the legal relationship between the parties subject to these Bylaws and to the extent necessary the Hobaho excludes the effect of the said Articles.

This confirmation shall include at least:

- a. the names of the clients;
- b. notification of the Bylaws and Terms and Conditions that apply to the agreement and any possible special conditions;
- c. the nature of the transaction;
- d. the performance to be carried out;
- e. conditions for delivery and payment;
- f. any provisions that may possibly vary from the Trading Regulations for the Flower Bulb Trade.

If the transaction concluded by the Hobaho pertains to perennial plants and/or nursery products the Trading Conditions for Nurseries in The Netherlands (*HBN* conditions) apply to the transaction involved. If the transaction pertains to decorative agricultural products that occur not only as perennials but as bulb crops as well, the nature thereof stated on a purchase confirmation prepared by the Hobaho is binding for the client. The provisions in the *HBN* conditions referred to above in relation to shipping costs, the packaging and packing materials to be used for the transaction and the payment of the sale price are expressly excluded.

In departure from the *HBN* conditions, clients in the context of transactions with perennial plants and nursery products agree with regard to delivery on demand that the manner of transport and the time of delivery is fixed in mutual consultation between the vendor and the buyer. The one responsible for

shipment is obligated to devote the necessary care in transporting the goods. Upon shipping he must take steps to prevent the goods from drying out, freezing or incurring other damage.

The clients are issued or sent a copy of the confirmation. As to a confirmation prepared by the Hobaho which, in its judgment, contains an apparent mistake, the Hobaho is entitled to replace it with a corrected version at any time, or to notify the client in writing only of the change and/or addition, which written notice would also be understood to include notice by electronic means.

In the event that one of the clients involved in an agreement concluded through the brokerage and intermediary services of the Hobaho is of the opinion that the content of the confirmation is not correct, he must give written notice of the error he has found within seven days after the date of the confirmation which according to him is incorrect, clearly stating what, in his opinion, that confirmation should have contained. Upon the agreement of the Hobaho and the other client to a rectification sought by a client the incorrect confirmation is corrected by the Hobaho. In the absence of timely written request for rectification, or upon failure of the other parties to agree to rectification, the content of the original confirmation is deemed to be correct. If the Hobaho has sent confirmations, yet one of the clients disputes receipt thereof, none of the parties referred to in the confirmation involved derive any right on that basis, explicitly including the right to compensation from the Hobaho, and the Hobaho excludes its own liability and liability for the acts and omissions of its employees unless the fact that a confirmation has not reached a client is a result of gross negligence on the part of the Hobaho.

Article 24

The agreements concluded with clients through the brokerage and intermediary services of the Hobaho shall be performed, as regards delivery and acceptance, also in accordance with the general rules which are imposed in that regard in the relevant trading regulations, particularly including the Trading Regulations for the Flower Bulb Trade as well as the Trading Conditions for Nurseries in The Netherlands, to the extent that the regulations referred to above are not contrary to the provisions of these Hobaho Bylaws. Notwithstanding the provisions of Articles 16 and 17 of these Bylaws, disputes with regard to the quality of the goods supplied, and disputes as to acceptance of deliveries are between clients, which must be resolved between the clients themselves. If possible, the Hobaho shall provide its mediation in order to arrive at an amicable solution and in that connection the clients in question must notify the Hobaho of any complaints/claims or other difficulties that arise in the performance of a private agreement.

Article 25

If the Hobaho considers it to be the case that, in the matter of an agreement concluded through its intermediary services, one of the parties owes or comes to owe the other party any amount, the Hobaho is entitled, when it has in its possession or receives any amount from the first party, to apply that amount [against the amount owed] and reserve it until a decision has been made, whether by mutual agreement or by final and binding judgment. A possible claim for refund of purchase sums or any other amount may be filed only against a client/vendor and not against the Hobaho.

Article 26

After the goods supplied have been taken into possession and accepted or must be held to have been taken into possession and accepted, the parties shall immediately notify the Hobaho, accurately reporting quantities, varieties, weights and sizes. If this report has not been provided in writing, to the satisfaction of the Hobaho, within eight days after the agreed delivery date, the agreement is deemed to have been performed in accordance with the confirmation and the Hobaho is entitled to demand the purchase price and commission accordingly.

Article 27

In the case of sale on the basis of a sample, the vendor is fully liable to the buyer for the sample that he made available upon giving the order to the Hobaho. The Hobaho is not obligated to take custody of the samples. The Hobaho is not liable in any manner for the samples it has gotten, nor for the preservation of the samples it has in its safekeeping.

LEASE OF LAND AND OTHER AGRICULTURAL REAL ESTATE

Article 28

If, through the brokerage and intermediary services of the Hobaho lease agreements are concluded, clients themselves remain responsible for the fulfilment of the legally necessary formalities as lessee and lessor, including the application for approval of the lease agreement by the Agricultural Tenancies Authority [*de Grondkamer*]. No Hobaho liability shall ensue from failure to fulfil these formalities, or for incorrect or incomplete performance of these formalities. Clients warrant to the Hobaho the accuracy of the information provided by them in the context of the formation of lease agreements and hold the Hobaho completely harmless against liability.

The risk of non-payment is, for the clients referred to in this Article, regulated in accordance with the provisions in Article 10 d. of these Bylaws.

GROWER'S RIGHTS

Article 29

If through the brokerage and intermediary services of the Hobaho sale agreements are concluded regarding goods subject to grower's rights, payment of the purchase price shall – in accordance with Article 8 first paragraph – be made to the Hobaho, which party remains exclusively entitled to grant discharge. The Hobaho is not liable for the formation of and compliance with licensing contracts etc. The payment of license fees, unless expressly otherwise agreed, shall take place directly between the parties. In all cases the parties themselves bear the risk of non-payment for these license fees.

FINAL PROVISIONS

These Bylaws enter into force effective on August 1, 2006. By the entry into force of these Bylaws all previous Bylaws lapse – notwithstanding their validity for agreements concluded prior to August 1, 2006.

Copyright reserved. These Bylaws are filed with the clerk of the Haarlem district court. A copy of these Bylaws is also accessible and available on the website of Hobaho: www.hobaho.nl

