



64 Soi Bangna-Trad 25, Bangna
Bangkok, Thailand 10260.

Tel: +66 2 744 1046

Fax: +66 2 744 1049

Email: nongwalai@upoic.co.th

SIAM ELITE PALM'S GENERAL CONDITIONS OF SALE FOR CIRAD® OIL PALM SEEDS & POLLEN

ARTICLE 1: SCOPE OF THE GENERAL CONDITIONS OF SALE

These General Conditions of Sale apply to the following planting material marketed by Siam Elite Palm : CIRAD® oil palm seeds along with CIRAD® oil palm pollen, which are exclusively intended for oil palm growing in the humid tropics (hereinafter referred to as "**Products**").

Unless a formal waiver is obtained from Siam Elite Palm, Product orders (hereinafter referred to as "**Orders**") sent to Siam Elite Palm by any client (hereinafter referred to as "**Client**") are subjected to these General Conditions of Sale, irrespective of any other clauses that might figure on the Client's documents. Consequently, by placing an order with Siam Elite Palm for Products, the Client accepts these General Conditions of Sale, automatically and without reservation, which bind the Client contractually.

These General Conditions of Sale supersede, where applicable, all provisions of any earlier general conditions of sale or purchase existing between Siam Elite Palm and the Client.

ARTICLE 2: ORDERS

In order to be valid, all orders must reach Siam Elite Palm in writing (by letter, email or fax) and be accompanied by a valid Siam Elite Palm quotation, offer or pro forma invoice signed by the client.

Any order is subject to Siam Elite Palm's acceptance.

Such acceptance shall only be deemed to have been given once:

- Siam Elite Palm has indicated its acceptance by sending an acknowledgement of the received order
- and Siam Elite Palm has received from the Client the whole or partial advanced payment, the irrevocable letter of credit (all costs to be covered by the initiator and whose terms are acceptable to Siam Elite Palm) or irrevocable stand-by letter of credit (whose terms are acceptable to Siam Elite Palm) for the total amount of the Order (unless special credit facilities are granted).

In the event of an Order for preheated or germinated seeds, the material can only be placed in the germinator once the Order has been accepted.

ARTICLE 3: PRICES

Product prices are indicated on the quotation, offer or pro forma invoice and are exclusive of tax. Unless mentioned otherwise, these prices include packaging/conditioning, and instructions for Product use. The prices may or may not include delivery and insurance costs depending on the Incoterm chosen and indicated on the quotation, offer or pro forma invoice.

ARTICLE 4: DELIVERY

4.1 Incoterm

Deliveries are made in compliance with Incoterm 2000 (defined by ICC – International Chamber of Commerce) as indicated on the quotation, offer or pro forma invoice.

4.2 Lead times

The lead times for delivery specified on the quotation, offer or pro forma invoice are indicative only and are subject to Siam Elite Palm's supply and transport possibilities.

Such lead times will be governed by the time at which the Order is accepted and at which the Client receives confirmation of the said acceptance.

Late deliveries shall not give rise to damages or deductions, or to cancellation of ongoing orders, subject to application of the following article on force majeure. However, if the Product has still not been delivered three (3) months after the delivery date that was confirmed after acceptance of the Order, for any reason other than force majeure, the sale may, in that case, be rescinded at the request of either party by registered letter with recorded delivery: where applicable, the Client may recover any down payment, to the exclusion of any compensation or damages.

In all hypotheses, the delivery date can only be respected if the Client has fulfilled all its obligations with respect to Siam Elite Palm, whatever the causes.

A delay or any other problem affecting a delivery shall not be considered a legitimate reason for the Client to postpone or fail to fulfil its own obligations relative to other deliveries.

4.3 Methods of delivery

Siam Elite Palm is authorized to proceed with total or partial deliveries.

Products will be dispatched in packaging providing the maximum guarantees of protection and preservation for this type of plant material.

Products will be accompanied by the documents needed for customs clearance (insofar as Siam Elite Palm has been informed of the documentary and customs requirements by the Client three weeks prior to the dispatch date).

The Client is responsible for obtaining any permit or authorization required for Product imports from any relevant authority.

ARTICLE 5: GUARANTEE

As the Products require special care, it is up to the Client to ensure that the necessary and adequate know-how and structures are available on the storage and germination of dry or preheated seeds and the immediate planting of germinated seeds (adapted prenursery, etc.).

The Client must also ensure the participation of qualified personnel to deal efficiently with the Products.

Siam Elite Palm will provide the Client with advice on use if the Client so requests.

Siam Elite Palm hereby agrees to supply oil palm seeds, derived from its breeding programme implemented jointly by Siam Elite Palm and its partners, in optimum physiological and phytosanitary condition.

Siam Elite Palm guarantees that dry seeds will have been harvested less than 12 months and preheated seeds less than 16 months at the time they leave the station. This guarantee has no relevance for germinated seeds.

A security batch amounting to 5% of the total quantity ordered by the Client will be added to each seed Order.

For dry or preheated seeds, Siam Elite Palm guarantees a germination rate of 85% provided the Client applies an adequate germination process and can prove that to be so. Calculation of the guarantee quantity is based on the quantity ordered. Thus, for a hypothetical Order of 100 000 dry seeds delivered, there will be a 5000-seed security batch and the guaranteed quantity of germinated seeds will be 85 000.

A control batch will be kept at the producing station and will undergo germination and transfer to a prenursery then a nursery.

Details of Products figuring in brochures or documents provided by Siam Elite Palm or on the Siam Elite Palm Website are for information purposes only.

ARTICLE 6: CLAIM PROCEDURE

Under no circumstances may a Client avail itself of a dispute before the courts to suspend payment of its order.

6.1 Transport-related damage to Products

On delivery, and within a period of 12 hours subject to preclusion, the Client or its agent is required to take a reading of the recording thermometer in the event of delivery by air, and to check the condition of the package containing the Products. The standardized recording thermometer is placed in packing case No. 1 of each seed and pollen shipment.

If there is visible damage or if temperatures below 10°C or over 40°C have been recorded:

- a. within twelve hours, call in the damage surveyor indicated on the insurance certificate
- b. procure a damage assessment statement from the transporter
- c. clearly indicate any reservations on the airway bill and/or last delivery slip
- d. inform Siam Elite Palm immediately to agree on the best procedure for preserving the Products as well as possible
- e. inform the transporter (or producer in the case of an EXW delivery) of any reservations in detail by registered letter with recorded delivery within three (3) days
- f. within three (3) days, send Siam Elite Palm a detailed breakdown of the claim in writing, along with a copy of each of the documents mentioned in the previous points.

If transport-related damage only becomes apparent once the delivery has been made, the Client must stop unpacking and proceed as indicated above at the unpacking stage, except points b and c.

These responsibilities lay with the Client, who will take any useful steps in the event that the Products are not addressed to the Client personally.

Once the insurers have examined the claims file drawn up in accordance with the above procedure, and subject to their agreeing to damage compensation, Siam Elite Palm may either issue a credit note in the Client's name to the value of the damaged material, or propose a new free delivery.

6.2 Claims relative to Product quality

A claim relative to the quality of the Products delivered may be taken into consideration if duly vindicated and sent to Siam Elite Palm in compliance with the following conditions:

- *within 12 months after delivery or within 5 months after placing in the germinator in the case of dry seeds*

Dry seeds must not be more than 14 months old from the harvest date indicated on the dispatch slip when placed in the germinator. Any claim regarding seed germination must be accompanied by a detailed report indicating the exact quantities discarded, along with precise soaking, heating and germination dates, showing a germination rate below 85% of the quantity ordered.

- *within 2 months after delivery in the case of preheated seeds*

Seeds must be placed to germinate within 30 days after delivery. For any claim, the Client must send Siam Elite Palm a detailed report indicating the exact quantities discarded, along with precise soaking and germination dates, showing a germination rate below 85% of the quantity ordered.

- *within 8 days after delivery for germinated seeds or pollen*

The Client will take all necessary steps to achieve the best possible striking of germinated seeds and preservation of pollen, and may be called upon to prove these actions of safekeeping.

The Client must allow and assist Siam Elite Palm, or any other person designated for that purpose by Siam Elite Palm, to verify any claim on site.

Any claim relative to Product quality will comprise a report precisely describing the characteristics and quantities of the damaged Products, along with photos and any other proof of damage, which should be sent by registered letter with recorded delivery or by DHL type express mail, otherwise the Products will be considered to have been approved and definitively accepted.

Under no circumstances can delivered Products be returned to Siam Elite Palm.

For all types of Products against which a claim is made for quality reasons, Siam Elite Palm will assess the disputed quantity within the limit of the guarantees specified under ARTICLE 5, comparing the results and proof of use supplied by the Client with the control batch kept by the Producers.

As compensation, after deduction of the security batch, Siam Elite Palm may add an equivalent replacement to a future order, or issue a credit note in the Client's name.

ARTICLE 7: RESERVATION OF TITLE

Siam Elite Palm retains ownership of the goods sold up to effective payment of the total price in principal and costs. Under this clause, the provision of a document creating an obligation to pay (bill of exchange or other) does not constitute payment. Failure to pay any of the instalments may lead to recovery of the Products. These provisions do not impede transfer to the Client, on delivery, of the risks of loss and deterioration of the sold Products, along with any damage they may give rise to.

ARTICLE 8: RESPONSIBILITY

Responsibility for the Products lies solely with the Client once the Products have been delivered. Under no circumstances may Siam Elite Palm be held responsible for any faulty handling committed by the Client.

In any event, for any claim arising from an Order, Siam Elite Palm's responsibility to the Client in terms of direct and foreseeable damages is limited to the price of the Products covered by the Order.

Under no circumstances may Siam Elite Palm be held responsible for:

- damage due to the Client's failure to fulfil its obligations,
- any financial or commercial injury such as loss of profits, loss of clientele, loss of data, any commercial disruptions, losses of orders, which constitute unforeseeable and indirect damages that consequently do not open up the right to compensation.

ARTICLE 9: FORCE MAJEURE

Under no circumstances may Siam Elite Palm be held responsible for total or partial failure to fulfil its obligations under these conditions of sale if such failure is due to a fortuitous event or a case of force majeure, such as any action by a civil or military authority, in fact or in law, total or partial strike, lock-out or flood, accident, riot, interruption or delay to a means of transport, due to a third party including the Client, or to circumstances beyond the control of the Parties, or affecting one of Siam Elite Palm's suppliers.

ARTICLE 10: VALIDITY OF THE GENERAL CONDITIONS OF SALE

If one or more of the provisions in these General Conditions of Sale were to be held void or unenforceable by a relevant jurisdiction or legal text, that (those) provision(s) will be deleted, without affecting the validity and enforceability of the other provisions of these General Conditions of Sale.

ARTICLE 11: APPLICABLE LAW / RELEVANT JURISDICTION

These General Conditions of Sale and any action undertaken in connection with their application are subject to Thai law.

Any dispute or litigation that might arise in the interpretation or application of these General Conditions of Sale, which cannot be settled amicably, will be submitted to the sole jurisdiction of the Commercial Court in Thailand, even in the event of plurality or the introduction of third parties.
