

## GENERAL CONDITIONS OF SALE RELATING TO INTERNET SALES BY EUROPEAN PIGEON WEBSITE TO CONSUMERS

1. The general conditions of sale apply between the following parties:  
**EPW B.V.** (alias European Pigeon Website and Xingezhan hereinafter "EPW"), a company incorporated under the laws of the Kingdom of Belgium, having its registered office and principal place of business at Weertersteenweg 177, 3680 Maaseik, Belgium, legally represented by Mr. W.A.J. Brouwers (hereinafter: "EPW");

and

2. The Purchaser, as defined hereafter;

### Preamble

- A. EPW is an enterprise that is known worldwide as a seller of pigeons and which has a website ([www.xingezhan.com](http://www.xingezhan.com) / [www.epw-eu.com](http://www.epw-eu.com)), on which the sale of pigeons is organized by means of a bidding system or a so-called auction.
- B. A Consumer, as defined hereinafter, is able to bid by means of the EPW online bidding system if, prior to the time of the auction, they are registered at EPW and are recognized as a bidder by EPW.
- C. The present Conditions of Sale govern the online sales by EPW to the Purchaser, as defined hereinafter.

### Article 1 Definitions

- 1.1 The following terms which are highlighted with a capitalized first letter have the following meaning:
  - a. Consumer: a natural person who acts for purposes which are not related to their professional or their commercial activities.
  - b. Pigeon: the pigeon or pigeons which are identified in the purchase offer which is sent out to the Purchaser, as defined hereinafter, by means of the Website, as defined hereinafter.

- c. Young Pigeon: a pigeon or pigeons which is/are at most one year old at the start time of the auction period.
- d. Purchaser: a Consumer who is registered at EPW as a bidder and is recognized as a bidder by EPW prior to or during the auction.
- e. Conditions of Sale: these present conditions of sale
- f. Website: [www.xingezhan.com](http://www.xingezhan.com) and [www.epw-eu.com](http://www.epw-eu.com)

## **Article 2 Object**

The purpose of the Conditions of Sale is to determine the terms and conditions under which EPW sells the Pigeon to the Purchaser. The Conditions of Sale apply to all internet sales made by EPW to a Purchaser.

## **Article 3 Establishment of a purchase agreement**

### **3.1 The offer is sent out by the Purchaser**

The description of a pigeon or pigeons and/or the photos of a pigeon or pigeons on the Website are merely invitations which are sent out by EPW for the receipt of binding purchase offers; in no event do they create a binding offer to sell on the part of EPW. The Purchaser who wishes to purchase a pigeon that is described and/or shown on the Website, must place a binding offer to EPW by means of the Website, prior to the expiry of the bidding period indicated on the Website (for the procedure: [www.xingezhan.com](http://www.xingezhan.com) and [www.epw-eu.com](http://www.epw-eu.com)), with indication of the price offered. This offer is binding on the Purchaser. The Purchaser is aware that EPW is not obliged to accept this offer, even in the event in which this offer is the highest offer which has been received by EPW during the respective bidding period. EPW reserves the right at all times to request additional information from the Purchaser following receipt of the offer from the Purchaser.

### **3.2 Establishment of a purchase agreement**

The purchase agreement between Xingezhan and the Purchaser is then established at the moment in which EPW accepts the offer of the Purchaser for the purchase of the Pigeon. EPW will send out a confirmation e-mail to the Purchaser within 48 hours of acceptance of the aforementioned offer of the Purchaser.

#### **Article 4 Obligation to deliver of EPW**

- 4.1 The identity of the Pigeon, subject to proof to the contrary of the Purchaser, is adequately demonstrated by EPW by means of a pedigree/family tree and the ring card (with the exception of those countries in which the same is not foreseen by a Federation, such as the Koninklijke Belgische Duivenliefhebbersbond VZW [Royal Belgian Pigeon Fanciers Federation] or by an equivalent foreign entity, in which case the leg ring will demonstrate the identity of the Pigeon). The aforementioned documents, unless otherwise agreed, are transferred by EPW to the Purchaser either at the time of the delivery of the Pigeon or shortly after the delivery by mail.
- 4.2 In view of the nature of the good that is being sold, being that it is a living animal, the Purchaser recognizes that the eventual infertility or reduced fertility of the Pigeon, notwithstanding the efforts undertaken by EPW in this regard and as detailed hereafter, does not have any influence on the conformity of the delivered product;
- 4.3 In view of the nature of the good that is being sold, being that it is a living animal, the Purchaser recognizes that the perfect health of the Pigeon, notwithstanding the efforts undertaken by EPW in this regard and as detailed hereafter, is not required for the fulfilment on the part of EPW of their delivery obligations.

#### **Article 5 Remaining obligations of EPW**

- 5.1 Health/Condition; EPW commits to impose an obligation upon its supplier(s)/pigeon fancier(s) to deliver the Pigeon in good condition. A pigeon in good condition shows:

- Normal white ceres
- Has sufficient muscle tissue next to the breastbone
- Has a pale pink throat without mucus
- Shows glossy plumage
- Gives an impression of vitality.

Furthermore, EPW commits to request of its supplier(s)/pigeon fancier(s) proof of vaccination against the paramyxovirus, and this within a period of less than six months prior to the conclusion of the auction period.

## **Article 6 – Purchase price - Payment terms – Place of payment**

- 6.1 The purchase price, which is to be paid by the Purchaser to EPW for the Pigeon, is that which is bid by the Purchaser in their binding offer relating to the Pigeon and which is accepted and confirmed by EPW. All amounts are always expressed in Euros. Apart from the case where it is expressly agreed upon in writing to the contrary, all payments are to be carried out in Euros. The following are NOT included in the aforementioned purchase price:
- a) Other taxes and duties that are applicable, such as import taxes
  - b) Miscellaneous expenses, such as eventual bank costs of the Purchaser
  - c) Transportation costs for the transport of the Pigeon from the place of delivery as determined in Article 8 to the location requested by the Purchaser. The Purchaser is responsible for this transportation. Upon explicit and exceptional request of the Purchaser, EPW can (help) organize this transportation (in the name and) on account of the Purchaser. EPW reserves the right to invoice the Purchaser for the costs hereof.
- 6.2. Following the creation of the purchase agreement between EPW and the Purchaser, as determined in Article 3.2, EPW sends an invoice to the Purchaser. Insofar as not otherwise agreed upon, the Purchaser is required to immediately pay the total amount that is indicated in the invoice to EPW within a time period of 7 calendar days following receipt of this invoice. The non-payment or incomplete payment of the amount indicated in the invoice within the aforementioned time period, and in the case in which the notice of default sent by EPW to this effect remains without remedy for a period of 10 calendar days, is a serious shortcoming and entitles the extrajudicial dissolution of the agreement for breach of contract by the Purchaser, as determined in Article 13.
- 6.3. The place of payment is always the business address of EPW, as indicated here above.

## **Article 7 Transfer of ownership, retention of ownership & transfer of risk**

EPW remains the owner of the Pigeon up until the moment in which the complete purchase price has been received by EPW. The risk relating to the Pigeon is transferred to the Purchaser at the time of delivery, as determined hereinafter.

## Article 8 Delivery

- 8.1. The place of delivery of the Pigeon is, depending on the circumstances, (i) the residence or location of the pigeon fancier/supplier from whom EPW has purchased the Pigeon, (ii) the business address of EPW (Weertersteenweg 177, Maaseik, Belgium)), (iii) or, in appropriate cases, at the premises of the first carrier which is established in Belgium or The Netherlands.
- (i) In the event in which the place of delivery is the residence or location of the pigeon fancier/supplier, it is deemed that the Pigeon, or as the case may be, an individual pigeon which is the object of this purchase agreement, has been delivered by EPW to the Purchaser at the moment in which acknowledgement has been given of the delivery of the Pigeon, or of the individual pigeon, to the residence or location of the pigeon fancier/supplier.
  - (ii) In the event in which the place of delivery is the business address of EPW, it is deemed that the Pigeon, or, as the case may be, an individual pigeon which is the object of this purchase agreement, has been delivered by EPW to the Purchaser at the moment in which acknowledgement has been given of the delivery of the Pigeon, or of the individual pigeon, to the business address of EPW as indicated here above.
  - (iii) In the event in which the place of delivery is the location of the first carrier in Belgium or The Netherlands, it is deemed that the Pigeon, or, as the case may be, an individual pigeon which is object of the purchase agreement, has been delivered by EPW to the Purchaser by means of the delivery of the same to the premises of the first carrier established in Belgium or The Netherlands.
- 8.2 EPW commits to deliver the Pigeon as determined here above, no later than six months following the completion of the auction period, without prejudice to Article 8.4. In the event in which the Purchaser selects the premises of the first carrier in Belgium or The Netherlands as the place of delivery, and however, that through conditions over which EPW has no control (for example export prohibition), the Pigeon cannot be delivered to the premises of the first carrier prior to the expiry of the term of delivery, the place of delivery then becomes the residence or location of the pigeon fancier/supplier.
- 8.3. As seller, EPW is not responsible for the transportation of the Pigeon from the place of delivery, as determined here above, to a final address determined as the case may be by the Purchaser. Accordingly, EPW is in no case accountable for the transportation from the place of delivery as determined here above, even in the

case in which EPW might have enabled any action to facilitate this transportation, and this even if EPW might have accepted an individual instruction from the Purchaser for this purpose.

- 8.4 In no case can EPW be obliged to deliver the Pigeon prior to receipt of the purchase price as determined in Article 6.

### **Clause 9 Disputes**

Any lack of conformity must be notified within two months of its discovery to EPW by means of registered mail. Any lack of conformity that is not notified in a timely manner, can in no case lead to any liability on the part of EPW.

### **Clause 10 Measures in the event of death or illness**

The Purchaser also commits to immediately and no later than within 24 hours notify EPW (at the business address) in the event in which an illness of the Pigeon is determined upon arrival of the Pigeon at the Purchaser. In the event in which death is determined at the time of arrival of the Pigeon at the Purchaser, the Purchaser is required to report this to EPW (to the business address) following determination of the same. The aforementioned notifications must be made through [info@pigeontrading.eu](mailto:info@pigeontrading.eu), and in the case of death, it is required that supporting photos of the death be attached. The aforementioned notifications, amongst other things, must allow, in the case in which EPW were to determine it to be necessary, that the necessary examinations be carried out by a qualified veterinarian and to make a statement on this.

### **Article 11 Exemption clause**

Without prejudice to the statutory warranty obligations, EPW is not liable to the Purchaser for damages suffered by the Purchaser due to a minor fault of EPW and/or its employees or its agents.

### **Article 12 Force majeure and unforeseen circumstances**

EPW is not responsible and cannot be held to the payment of any compensation to the Purchaser in the case of temporary or permanent lack of performance due to

force majeure. Under the term force majeure, one is to understand all causes that lie beyond the control of EPW, such as among others (however not limited to): strikes, outbreak of bird flu or other illnesses, import or export prohibitions, etc. In the case of a situation of temporary force majeure that continues for over thirty calendar days, EPW then has the right to dissolve the purchase agreement, without being liable for any related compensation being owed to the Purchaser.

### **Article 13 Express termination clause**

EPW has the right to unilaterally terminate the purchase agreement without prior recourse to court action against the Purchaser, in the event of a serious shortcoming of the Purchaser against one or more of its contractual obligations, insofar as the notice of default has not resulted in any remedy for a period of 10 calendar days (in the event in which more than one notice of default is sent, then this term is to be determined on the basis of the first notice of default). EPW reserves the right to claim additional damages from the Purchaser. The non-payment of the complete purchase price as determined in Article 6, within the therein referred term, will in any case be considered to be a sufficient shortcoming of the Purchaser to entitle a unilateral, non-judicial termination by EPW of the purchase agreement.

### **Article 14 Proof**

The contractual parties accept electronic evidence (amongst others by means of e-mail, WeChat, etc.)

### **Article 15 Severability**

A contractual provision of the Conditions of Sale that is declared to be wholly or partially invalid or otherwise unenforceable (for example, because on the basis of the Law it is considered unwritten), is by operation of law deemed to be no longer a part of the Conditions of Sale, this without affecting the validity or the enforceability of the remaining provisions.

## **Article 16 Privacy statement**

EPW processes personal information in compliance with the privacy statement which you can find via [www.epw-eu.com/privacy](http://www.epw-eu.com/privacy). For further information, questions or remarks on our privacy policy, please contact us via [info@pigeontrading.eu](mailto:info@pigeontrading.eu)

## **Article 17**

The purchase agreement between EPW and the Purchaser is governed by the Conditions of Sale. Prior general conditions and contrary terms and conditions of the Purchaser are not applicable under any circumstance. Only the Conditions of Sale drafted in the English language govern the purchase agreement between EPW and the Purchaser. EPW is not responsible for any translation errors or deviations contained in translated general conditions of sale and/or on the website. Furthermore the purchase agreement is governed by the laws of the Kingdom of Belgium.

## **Clause 18 Jurisdiction**

All disputes between the parties that result from or are related to the validity, the execution and/or interpretation, and/or the termination of the purchase agreement, including the Conditions of Sale, are submitted to the jurisdiction of the courts of the Kingdom of Belgium, which hold exclusive jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the Kingdom of Belgium, without exclusion of the mandatory national protection that Seller enjoys under its own national laws and legislation. EPW is entitled to expressly waive this jurisdiction clause in writing. EPW will also and at all times be entitled to submit a dispute or claim to the competent court of the place where Seller has its registered or actual place of business. Either Party shall use its best efforts to settle a dispute in an amicable manner. The United Nations Convention on Contracts for the International Sales of Goods (CISG, 1980) shall not apply to the general conditions of sale, the Purchase Orders and/or agreements.