



Terms and Conditions

- 1. Payment:** Buyer will make PAYMENT IN FULL, WITHIN THIRTY (30) DAYS OF PLANT MATERIAL INVOICES AND SEVEN (7) DAYS OF DATE OF FREIGHT INVOICES. SERVICE CHARGES WILL BE CHARGED ON OVER-DUE ACCOUNTS AT THE MAXIMUM LEGAL RATE OR 1.5% PER MONTH (15% PER ANNUM) WHICHEVER IS LESS.
- 2. Warranties and Sellers Liability:** Seller warrants that its plant materials are of the varieties true to name as described in this acknowledgement. Upon proof to Seller's satisfaction that the plant materials delivered to Buyer are not of the varieties described in the Acknowledgment, Seller, at its discretion, will either replace such plant materials or materials must be submitted by Buyer in writing to seller within the following periods after receipt of such plant materials by Buyer.
within 5 days for claims for incorrect counts or sizes and/or mortality or variety errors. (Subject to the Provisions of Section 3, below.) . This warranty does not apply to plant materials damaged or injured during shipments on contracted carriers or due to Buyers negligence, improper care, unreasonable use or abuse. Under no circumstance shall Seller be liable for any amount greater than the original price.

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. REPLACEMENT OF THE PURCHASED PLANT MATERIALS F.O.B AT THE PLACE WHERE SELLER ORIGINALLY SOLD TO BUYER, OR REFUND OF THE ORIGINAL PURCHASE PRICE, AT SELLER'S OPTION, IS BUYERS EXCLUSIVE REMEDY UNDER THIS WARRANTY, AND IN NO CASE SHALL SELLER BE RESPONSIBLE FOR THE CONSEQUENTIAL OR SPECIAL DAMAGES, REGARDLESS OF WHETHER THE PROBLEMS OR DEFECTS ARE DISCOVERABLE OR LATENT.

- 3. Contingencies:** This order acknowledgment and Seller's liability hereunder is subject to Seller's crop growing conditions and is made with the understanding that orders may be voided or modified by Seller should Seller be unable to perform any terms or conditions of this Acknowledgment due to the following: Any and all weather conditions including, but not limited to drought, flood, fire, frost and hail; errors in count; labor problems; crop failures; pestilence; war; embargo; government regulations or restriction of any and all kind; expropriation or condemnation of property by government authority; interruption of or delay in transportation; accidents; explosions; inability to obtain material and supplies; excess of demand for equipment over available supply; and any other causes within or beyond the Seller's control. Seller reserves the right without notice to Buyer to substitute the closest possible size at Seller's current corresponding price of plant material in stock if Seller is unable to furnish size ordered by Buyer.
- 4. Risk of loss or damage:** All risk of loss or damage to the plant materials shall be on Buyers from and after delivery to carrier or to Buyer, whichever delivery occurs first, and such loss shall not relieve Buyer from any obligations.
- 5. Taxes:** Prices listed on this Acknowledgment do not include federal, state or local taxes, which shall be paid by the Buyer.
- 6. Default and Remedies:** Time is of the essence of the Acknowledgment. If Buyer becomes insolvent, fails to make any payment within the time require, or fails to perform any other obligation imposed by this Acknowledgment or by law, Buyer shall be in default and Seller may immediately enforce any and all remedies provided by law.

THANK YOU FOR YOUR BUSINESS!



7. **Cost and Attorney fees:** In the event suit or action is instituted to enforce any of the terms of this Acknowledgment, the prevailing party shall be entitled to recover from the other party such as the court may adjudge reasonable attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.
8. **Assignment:** The right and benefits of Buyer are personal to it and may not be transferred or assigned voluntarily, or involuntarily, without the prior written consent of Seller. Subject to the limitation, this Acknowledgment shall be binding upon and insure to the benefit of the parties, their successors and assigns.
9. **Entire Agreement:** Buyer agrees that this Acknowledgment is the complete and exclusive statement of the agreement between the parties, which supersedes all proposals or prior agreement, oral or written, and all other communications between the parties relation to the subject matter of this Acknowledgment. This Acknowledgment can be altered, however, by different or additional terms contained in a subsequent Acknowledgment, invoice or change order issue by Seller.

SIGNATURE _____ **DATE** _____

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