

Terms and Conditions of Sale

Acceptance:

ALL SALES ARE SUBJECT TO AND EXPRESSLY CONDITIONED UPON THE TERMS AND CONDITIONS CONTAINED HEREIN, AND UPON BUYER'S ASSENT THERETO. NO VARIATION OF THESE TERMS-AND CONDITIONS WILL BE BINDING UPON SELLER UNLESS AGREED TO IN WRITING AND SIGNED BY AN OFFICER OR OTHER AUTHORIZED REPRESENTATIVE OF SELLER.

Payment:

Terms are payment with cash prior to shipment for first time buyers or unapproved accounts. All approved accounts not paid in full within terms set by the Seller will be charged a service charge equal to 1.5% per month (18% per annum) of the unpaid balance, provided however, that if any law or regulation determines such rate to be inapplicable, the rate shall be the highest rate allowed by law. If the financial condition of the Buyer results in the insecurity of Seller, in its sole and unfettered discretion, as to the ultimate collectability of the purchase price; Seller may, without notice to Buyer, delay or postpone the delivery or products; and Seller, at its option, is authorized to change the terms of payment to payment in full or in part in advance of shipment of the entire undelivered balance of said products.

Warranty:

LIMITED WARRANTY. Seller warrants that the goods are true to name and comply with the specifications provided to Buyer. This warranty is given in lieu of any other warranty of any kind. See Disclaimer of Warranties below.

DISCLAIMER OF WARRANTIES. SELLER SELLS ITS PRODUCT "AS IS" AND SPECIFICALLY EXCLUDES ANY AND ALL WARRANTIES (WHETHER WRITTEN, ORAL OR IMPLIED) EXCEPT THAT THE GOODS ARE TRUE TO NAME WITH THE SPECIFICATIONS PROVIDED TO BUYER. SELLER MAKES NO OTHER WARRANTY OF QUALITY, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

LIMITATION OF REMEDIES. IN ALL CASES, THE LIABILITY OF SELLER FOR AN ALLEGED DEFECTIVE PRODUCT SHALL BE LIMITED TO REPLACEMENT OF THE PRODUCT, OR A REFUND OF THE PURCHASE PRICE AT SELLER'S OPTION. THIS IS AN EXCLUSIVE REMEDY, AND IN NO CASE SHALL SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES. If the Buyer declines to accept the Limited Warranty, the Disclaimer of Warranties, and/or the Limitation of Remedies, then the Buyer shall immediately return the goods to a location designated by the Seller and the Seller will refund the purchase price.

Shipping and Claims:

All prices quoted are FOB the Seller's shipping point. Title to goods passes to Buyer when delivered to the carrier at Seller's shipping point and Buyer shall bear all risk of loss or damage in transit. All claims involving shortages and/or transit damage must be made in writing on the Invoice/Bill of Lading and clearly noted with the driver's signature upon the receipt of shipment. All claims of any damage incurred in transit must be made directly to the carrier. All claims regarding the goods, including but not limited to damages, shortages, problems with grade and quality issues must be made in writing, with adequate documentation, and received by Seller within 48 hours of delivery. If Buyer shall fail to so notify Seller, such goods shall conclusively be deemed to conform to the terms and conditions hereof and to have been irrevocably Accepted by Buyer, as provided by RCW 62A.2-606. Buyer waives any claim if the goods have been mishandled, improperly maintained, sold or otherwise disposed of prior to inspection by the Seller.

Future Orders:

Seller may impose a non-refundable deposit to reserve orders. Any cancellation of this order is ineffective unless expressly agreed to in writing by Seller. Upon such agreement, Seller will advise Buyer of the total charge, if any, for cancellation and Buyer agrees to pay such charges. Failure of the Buyer to take delivery of the order in its entirety within 10 days of the indicated shipping date will result in loss of the deposit, and Buyer shall be responsible for any losses suffered by the Seller as a result of said failure. All orders are acknowledged based upon estimates of stock in the field. The Seller reserves the right to cancel a portion or all the order should losses occur in production due to any cause, including but not limited to crop failure, inclement weather, flood, fire, strikes and errors in count.

Miscellaneous Provisions:

Seller's failure to strictly enforce any term or condition of this order or to exercise any right arising hereunder shall not constitute a waiver of Seller's right to strictly enforce such terms or conditions or exercise such right thereafter. All rights and remedies under this order are cumulative and are in addition to any other rights and remedies Seller may have at law or in equity.

This agreement shall be governed by and construed in accordance with the laws of the State of Washington, without regard to principles of conflicts of law. Buyer agrees to venue and jurisdiction of any action under this agreement in the state and federal courts having jurisdiction over actions in Grays Harbor County, Washington. The prevailing party in any action brought under this agreement shall be entitled to its attorney's fees and costs, including those incurred in any bankruptcy or receivership proceeding, appeal and/or collection.

If any provision of this agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby. The paragraph headings herein are for the convenience only; they form no part of the terms and conditions and shall not affect their interpretation. This writing constitutes the final expression of the parties' agreement and is a complete and exclusive statement of the terms of that agreement.

This agreement shall be binding upon, more to the benefit of, and be enforceable by, parties hereto, and their respective heirs, personal representatives, successors and assigns.



STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE

NURSERY STOCK INSPECTION CERTIFICATE
The contents of this shipment and/or the producer of this stock has been inspected during the growing season and found apparently free from injurious insects and plant diseases.

By authority of the Director of Agriculture
AGRI
060-6015



Washington State #84
Department of Agriculture
Plant Services Program

Facility inspected and found free of
Brown Garden (Helix aspersa) and other
phytophagous snails.

By authority of the Director of Agriculture