

Extract from the General Terms and Conditions of Brandkamp GmbH

1. Validity of the terms and conditions

1.1. These general terms and conditions apply in business operations with all of our customers, insofar as these entrepreneurs within the meaning of § 14 BGB are.

1.2. All - including future - deliveries and services take place exclusively with the inclusion of these terms and conditions, unless these are in individual cases or are contractually modified or excluded on the basis of a framework agreement with a customer; different conditions. We expressly contradict our customers.

2. Conclusion of the contract

2.1. In view of the limited production capacities, our first offers (e.g. in brochures, catalogs, advertising material or when answering inquiries) are not yet applications within the meaning of Section 145 BGB, but are subject to change and non-binding. Rather, they are only as prompts to understand the submission of applications by the customer.

2.2. The customer is bound to an application he has submitted to us for a period of 3 weeks from receipt by us, if he is at Submission of the application does not specify otherwise.

2.3. An order is only concluded when we accept the customer's application by means of a written confirmation or the delivery or Carry out the service without prior written confirmation of acceptance.

2.4. If we accept - regardless of whether in writing or through execution - after the 3-week commitment period (Section 2.2) has expired, the
However, the contract is deemed to have been concluded if the customer does not immediately object.

2.5. We have the right to adapt types, quantities and delivery dates to the actual delivery options in our order confirmations. Such changes are deemed to have been agreed if the customer does not object within 10 calendar days of receipt of the order confirmation.

This only applies if the change is reasonable for the customer, taking our interests into account.

3. Delivery / delivery dates / delivery restrictions or exclusions

3.1. Agreed delivery dates relate to the provision of the goods for handover or dispatch in our company in Isselburg-Anholt.

3.2. Our delivery obligation is suspended as long as the correct and timely delivery is not made by our suppliers or us due to force majeure is not possible This only applies in the event that we, our vicarious agents or our supplier do not miss the deadline is represented.

3.3 In the case of Section 3.2, we are entitled to withdraw from the contract without any obligation to pay compensation - subject to Section 11 - if we the performance has become impossible or unreasonable or an end of the performance impediment is not foreseeable. This only applies if we or our Vicarious agents are not responsible for the impediment to performance and if we have immediately informed the customer of the aforementioned impediments to performance. In the event of withdrawal, we are obliged to immediately provide any consideration already provided by the customer reimburse.

4. Delivery, inspection and notification obligation

4.1. We are entitled to carry out orders in partial deliveries, unless otherwise agreed. The customer can accept partial deliveries only justifiably refuse if they are objectively not interested in him. The refusal to accept must be declared in writing; With the refusal must also justify the lack of objective interest in writing.

4.2. The customer must check the goods immediately - depending on the scope of the delivery, if necessary by taking a sufficient number of random samples and investigate. If the delivery is made to a third party at the request of the customer - for example the customer's purchaser - the customer has ensure an immediate examination and investigation.

4.3. The customer must notify us immediately of any obvious defects, shortages or incorrect deliveries; the transport personnel are not authorized to receive complaints. If the complaint is not made immediately, but at the latest within 10 calendar days, the Customer do not derive any rights from the obvious defects. Our commercial agents are not authorized to receive complaints.

5. Phytosanitary properties

5.1. The customer's duty to inspect and notify also extends in particular to phytosanitary properties, i.e. in particular pest infestation, viruses and diseases; if the customer suspects that there are defects in the goods, in accordance with section 10.7. to proceed.

5.2. If the customer calls in an expert himself - especially because we cannot be reached or because there is a need for urgency - he has it with him to commission a competent and generally recognized laboratory. The customer has to respond to any urgency when engaging the laboratory to point out.

5.3. If the customer suspects that there are defects within the meaning of section 5.1. are present, he may have, in order to minimize the damage Infested or defective plants from other plants - both those supplied by us and those already available to the customer - segregate in order to avoid reaching over.

6. Delivery modalities

6.1. Unless otherwise agreed, all prices are ex works in Isselburg-Anholt without costs for freight, Packaging, insurance and royalties. A dispatch takes place only at the request of the customer; in this case all freight / Transport costs to be borne by the customer and may be passed on by us.

6.2. The risk of accidental loss of the goods passes to the customer when they are handed over to the carrier.

6.3. Carrier pallets are charged at € 0.50 per piece. If the customer returns undamaged, a credit of € 0.35 per piece will be issued.

7. Prices, discounts and rebates

7.1. Unless otherwise agreed, our prices apply at the time of the binding order by the customer valid price list.

7.2. All prices are ex our production facility and do not include freight, packaging and sales tax, unless otherwise is agreed.

7.3 In the case of advance payments or payments within 10 calendar days of the invoice date, we grant a 2% discount, provided this is stated on the Invoice is printed out.

8. Method of payment, offsetting, default

8.1. Payments are only to be made to one of our accounts.

8.2. The customer can only offset any counterclaims if these have either been recognized by us or have been legally established.

9. Retention of title, assignment

9.1. All goods delivered by us remain until the complete fulfillment of all claims due to us from the underlying contract - including any costs, interest and damage caused by delay - our property.

9.2. Our property also extends to the plants and products that the customer has acquired through cultivation, processing or mixing or mixing of the goods delivered by us under retention of title.

9.3. The customer is entitled to resell the goods delivered by us in the course of his ordinary course of business. In this case, he already now assigns to us the claim against his customer arising from the resale. The amount of the assignment is limited to our claim from the delivery of the resold goods including any costs, interest and damage caused by delay, insofar as these are the Customers have already been charged and registered.

9.4. Until further notice, our customer is entitled to collect claims assigned to us from his customers.

9.5. If third parties - particularly in the context of enforcement or insolvency measures - want to access the goods that are our property, the customer must inform them of our ownership and submit the underlying documents. Has at the same time he to inform us immediately.

9.6. If the value of the securities granted to us by the customer exceeds the sum of our secured claims by more than 20%, we are up requests by the customer with regard to the securities exceeding 20% are obliged to release. The selection of the securities to be released is done by us at our reasonable discretion.

10. Warranty, transport damage

10.1. Insofar as goods delivered by us have a defect, the cause of which was already present at the time of the transfer of risk, we are fundamentally obliged to guarantee if the defect occurs within the limitation period (section 10.4.) and we are notified of this becomes.

10.2. If the customer resells the goods we have delivered and his buyer or the last buyer in the supply chain is a consumer in the sense of § 13 BGB, the customer can claim against us in accordance with the legal regulation of §§ 478, 479 BGB by way of the so-called supplier recourse. If there is a justified case of supplier recourse, the restrictions contained in these terms and conditions apply our warranty obligations.

10.3. The prerequisite for the supplier's recourse is that the goods delivered by us are unchanged over the entire supply chain to the consumer on sale is. Insofar as the goods have been cultivated or otherwise changed in the meantime, recourse to the supplier is out of the question. The supplier's

recourse presupposes that the defect present at the time of handover to the consumer also affects the relationship between us and the customer represents deficiency.

10.4. Warranty claims expire after 12 months. Notwithstanding this, the statutory limitation periods apply if the customer informs us entitled to claim against the supplier (clauses 10.2. and 10.3.).

10.5. If the customer violates his inspection and complaint obligations incumbent on him in accordance with section 4, he can in accordance with the provision in section 4. lose your warranty rights; if the customer is a merchant, this applies in accordance with the provisions of Section 377 HGB also in the event of supplier recourse.

10.6. The customer has to report defects that are not obvious (hidden defects) immediately after they are discovered. Our sales representatives are for receipt of complaints not authorized.

10.7. If the customer shows defects - regardless of whether according to section 4 or section 10.6. - on, he has to give us the opportunity to examine them ourselves and / or have it examined by a third party commissioned by us. If the customer himself instructs third parties - in particular experts - to examine the goods or to determine any defects, we are only obliged to assume the costs incurred if this is actually the case defects for which we are responsible are discovered and we have previously agreed to the assignment in writing; this does not apply if due the urgency of the preservation of evidence, an immediate assessment is objectively necessary and we cannot be reached in time.

10.8. If the customer asserts warranty claims, we are initially only responsible for supplementary performance (removal of the defect or delivery a defect-free item). If we refuse supplementary performance or if this fails, the customer can reduce the purchase price or withdraw from the contract. Claims for damages by the customer are - subject to the provision in Section 11 - excluded.

10.9. The customer is obliged to examine the goods - if necessary in appropriate random samples - for transport damage upon receipt; There is a comprehensive obligation to inspect, especially in the event of visible damage to the transport packaging. If transport damage is found, then the customer to immediately prepare a report in which the condition of the goods and the transport damage are recorded. The protocol is that transport personnel to be submitted for signature.

10.10 We are not liable for transport damage - subject to Section 11 - unless the damage was caused by us or one of our vicarious agents intentional or grossly negligent.

11. Claims for damages by the customer

11.1. Insofar as the customer is entitled to claims for damages or reimbursement of expenses due to defects that are not covered by the above agreements or section 11.2. are excluded, they become statute-barred after 12 months.

11.2. All other claims for damages or reimbursement of expenses by the customer - with the exception of those in Section 11.3. named - regardless of which one legal grounds, in particular due to breach of obligations arising from contractual obligations or unlawful acts, are excluded.

11.3. Claims for damages by the customer are not excluded with regard to

a) Damage from injury to life, limb or health that is based on a negligent breach of duty by us, an intentional or negligent breach of duty by our legal representatives or our vicarious agents

b) Other damage resulting from a grossly negligent breach of duty by us or from an intentional or grossly negligent breach of duty our legal representatives or our vicarious agents.

12. Warranties

12.1. All descriptions and other information provided by us, including in catalogs, brochures and advertising materials, are fundamentally - unless expressly stated otherwise - only descriptions. We do not guarantee with such descriptions the condition of the goods or that the goods retain a certain condition for a certain period of time.

12.2. If, in deviation from Section 13.1. have assumed a guarantee, the customer is entitled to the guarantee in the event of defects are subject to the statutory warranty rights without restriction.

13. Property rights, licenses, reproduction

13.1. All protected cuttings marked with (s), P, R or other protective symbols may only be used for your own flower cultivation become; replication is generally not permitted.

13.2. The plants subject to plant variety protection may only be reproduced and propagated on the basis of a license agreement. A license agreement is to be agreed separately; this also regulates the license fees.

13.3. In the event of inadmissible replenishment by the customer, the latter owes - irrespective of further obligations to pay damages - the usual license fee increased by a third.

13.4. If the customer changes, the customer must inform us immediately, grant us access to the inspection and us to provide samples of the mutations without being asked.

13.5. The mutation is owned by the breeder.

13.6. The customer irrevocably allows us to inspect his cultivation areas after prior notice and appointment in order to check compliance with plant variety protection.

14. Choice of law, place of jurisdiction

14.1. German law applies exclusively - also to contracts with foreign countries.

14.2. For all disputes arising from contractual relationships between us and the customer - unless there is a different exclusive place of jurisdiction according to the law - Bocholt / Münster.

14.3. Should one of the clauses contained in these terms and conditions or any other clause of a contract concluded between us and the customer be wholly or be or become partially ineffective, the rest of the contract remains effective.