

Standard Terms and Conditions of Sale

All of the terms set forth below are hereby adopted as the terms of each sale to the Buyer by Seller or any of Seller's affiliates until revoked or modified in writing by both parties:

NOTICE TO BUYER: EXCLUSION OF WARRANTIES AND LIMITATION OF DAMAGES AND REMEDY

WE WARRANT THAT THIS SEED CONFORMS TO THE LABEL DESCRIPTION, AS REQUIRED BY FEDERAL AND STATE SEED LAWS. WE MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE.

LIABILITY FOR DAMAGES FROM ANY CAUSE, INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY AND NEGLIGENCE, WITH RESPECT TO THIS SALE OF SEED IS LIMITED TO A REFUND OF THE PURCHASE PRICE OF THE SEED. THIS REMEDY IS EXCLUSIVE.

IN NO EVENT SHALL WE BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS. ANY ACTION FOR BREACH OF CONTRACT MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS OCCURRED.

TERMS AND CONDITIONS

1. All amounts due under this Contract shall be payable in U.S. dollars unless otherwise noted in this Contract. A service charge on one and a half percent (1 ½%) per month (18% per annum) or the highest maximum rate allowed by law, whichever is lower, will be made on all amounts thirty (30) days or more past due.
2. Ampac Seed Co. warrants to the extent of the purchase price that seeds sold are as described on the container within recognized tolerances.
3. In the event of short crop, Ampac reserves the right to fill this order prorata and in a case of complete failure of crop, Seller shall not be liable.
4. Anything contained herein to the contrary notwithstanding, the contract shall be deemed to have been made at Tangent, Oregon. Buyer hereby agrees to submit to the jurisdiction of the courts of the State of Oregon to resolve all disputes relating to this contract.
5. In the event of a conflict between the terms of this Contract and any other document, offer, counteroffer or communication relating to this transaction, the terms of this Contract shall govern.
6. In the event that litigation or arbitration is instituted relating to this contract, the losing party shall pay to the prevailing party its reasonable attorney fees and costs on arbitration at both the trial and appellate levels.
7. Any excise, taxes, fees or other charges now or hereafter imposed by a governmental agency or authority on the products governed hereby, their importation, sale or use, shall be added to the price set forth herein and paid by Buyer. If terms provide for delivery to Buyer's destination, any increase in applicable freight rate shall be for Buyer's account.
8. In the event that Buyer defaults in any payment to the Seller or becomes insolvent, or if a receiver is appointed for all or part of Buyer's assets, or a petition in bankruptcy, either voluntary or involuntary is filed by or against Buyer, Seller may, at its option, cancel all or any unfilled portion of this contract.
9. In the event this Contract provides for the sale of several installments, then separate and independent contracts for sale of the several installments agreed to be delivered are intended. No breach by the Seller as to a particular installment shall affect the contract for payment as provided. The Buyer reinstates the contract if the Buyer accepts a nonconforming installment without seasonably notifying Seller of cancellation. If the Buyer fails to fulfill the terms of this or any other agreement with the Seller, the Seller may, without prejudice to any other lawful remedy, defer further deliveries, or at its option cancel this or any other contract with the Buyer saving to the Seller the right to recover any damage suffered by such cancellation.
10. Failure by Seller at any time to require performance by Buyer of any of the provisions hereof shall in no way affect Seller's rights hereunder to enforce the same, nor shall any waiver of any breach be held to be a waiver of any other succeeding breach, or a waiver of this nonwaiver clause.
11. In the event that this sale is a sale to purchaser located in the United States or Canada, then this contract and all matters relating to the performance of this contract shall be governed by the laws of State of Oregon and Noramseed Trade Rules and Usages except as the terms of this agreement may provide to the contrary. In the event of a conflict between the terms of this agreement and the Noramseed Trade Rules and usages, then the terms of this agreement shall govern. At the option of Ampac Seed Co., any controversy hereunder may be resolved by suit or action in the appropriate court or by arbitration in accordance with the rules of the American Arbitration Association.
12. The Noramseed Trade Rules and usages govern this agreement, except as the terms of this agreement provide to the contrary, and provide that in all cases payment must be made in full when due and that it is not permissible to withhold payment to offset claims which the Buyer may have on this agreement. The Rules further provide that payment does not constitute acceptance of the fulfillment of the contract. The parties agree that if payment is not made when due that the Purchaser agrees not to assert any defense, setoff, recoupment, claim or counterclaim which Purchaser may have against Ampac Seed Co. on account of or relating to this agreement.
13. In the event that the sale is a sale to a purchaser located outside the United States or Canada then this contract shall be governed by F.I.S. Rules. In the event of a conflict between the terms of this agreement and F.I.S. Rules, then the terms of this agreement shall govern.
14. Buyer shall not assign this agreement or Buyer's rights hereunder without the express written consent of Ampac Seed Co.
15. Where Buyer wrongfully rejects seed, revokes acceptance of seed, fails to make payment due on or before delivery, or repudiates part or all of this Contract, Seller may (1) withhold delivery of seed; (2) stop delivery by a bailee; (3) identify to the contract conforming seed not identified and recover damages and (5) cancel this Contract.
16. Buyer's failure to sign and return a duplicate original of this Contract within seven (7) days from the date hereof shall entitle the Seller to cancel this Contract at its option at any time before receipt of the signed Contract. Signature may be by facsimile with an original to follow by regular mail.