

Infinity Christmas Trees Ltd

Conditions Of Sale

<p>1 CONDITIONS</p> <p>1.1 In these conditions: 'BUYER' means the person, firm, partnership, limited liability partnership, corporation or company who/which accepts a quotation of the seller for the sale of goods or whose order for the goods is accepted by the seller. 'GOODS' means the goods which the seller is to supply in accordance with these conditions. 'SELLER' means INFINITY CHRISTMAS TREES Ltd, Unit 90, The Hop Pocket, Bishops Frome, Hereford, WR6 5BT. Company number 10840499. 'CONTRACT' means the contract for the purchase and sale of goods.</p> <p>1.2 The heading in these Conditions are for convenience only and shall not affect their interpretation.</p> <p>2 BASIS OF SALE</p> <p>Any variation of the Contract and/or these Conditions shall have no legal effect unless expressly agreed in writing and signed by an authorised signatory of the Seller.</p> <p>3 ORDER AND SPECIFICATIONS</p> <p>3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller and the Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order submitted by the Buyer.</p> <p>3.2 The quantity, quality and description of and any specification for the goods shall be those set out in the Sellers quotation (if accepted by the Buyer) or the Buyers order (if accepted by the Seller).</p> <p>3.3 Any specifications, advertising material and any descriptions and illustrations contained in the Seller's website or brochures ("the Specifications") are issued for the purposes of giving an approximate description of the Goods. The Goods are natural products. Therefore the Seller cannot guarantee that the appearance and/or colours shown in the Specifications exactly reproduce the appearance and/or colours of the Goods sold.</p> <p>3.4 All sizes quoted are approximate.</p> <p>3.5 The Contract will be subject to the provisions of The Consumer Rights Act 2015.</p> <p>3.6 The Goods are perishable goods for the purposes of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. The Buyer acknowledges that it shall not have a cancellation right under these Regulations</p> <p>3.7 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller, and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), cost (including cost of all labour), damages, charges and expenses incurred by the Seller as a result of cancellation.</p> <p>4 PRICE OF GOODS</p> <p>4.1 The price of goods shall be the Seller's quoted price or the price agreed with the Buyer. All prices quoted are valid for 7 days only until earlier acceptance by the Buyer after which time they may be altered by the Seller without giving notice to the Buyer.</p> <p>4.2 All prices are given by the Seller on an ex-work basis. Where the Seller agrees to deliver the Goods, the Buyer shall be liable to pay the Seller's charges for transport, packing and insurance as set out on the Seller's quotation or otherwise agreed in writing.</p> <p>4.3 Delivery charges will apply for all orders and/or deliveries of less than 200 trees per delivery, as specified by the buyer. The Buyer shall be additionally liable to pay to the Seller any 'Low Emissions Zone' charges that may apply in accordance with the Transport for London terms and conditions.</p> <p>4.4 The price of goods shall include packaging in the forms of secured plastic netting or bailing with string.</p> <p>4.5 All pallets are chargeable as specified by the Seller. Pallet refunds will be issued by the Seller to the Buyer on receiving returned and non-damaged pallets in reasonable condition by the deadline set by the Seller.</p> <p>4.6 The price of any Goods is exclusive of any applicable value added tax or sales tax which the buyer shall be additionally liable to pay the seller.</p> <p>5 TERMS OF PAYMENT</p> <p>5.1 The Buyer shall pay for the Goods on or before delivery unless an agreement has been reached under Clause 5.3.</p> <p>5.2 Payment for goods must be made by the way of cash, BACS, cleared cheque, an irrevocable documentary Credit or Bankers Guarantee issued by a Bank duly approved under the Banking Act 2009, in a form acceptable to the Seller.</p> <p>5.3 In default of payment for Goods under this Clause 5, interest shall be paid by the Buyer on a daily basis from the date of the invoice until payment at the current rate of 8% per annum (or as per the Late Payment Legislation rate whichever is higher) above the base lending rate from time to time in force of Bank of England the Seller shall from time to time specify. The Seller reserves the right to take legal action instructing a Debt Collection Agency for the recovery of any outstanding monies due. The Buyer shall be liable to pay for any fees or expenses incurred by the Seller in this regard.</p> <p>5.4 Any credit given by the Seller to the Buyer may be withdrawn or limited at any time by the Seller on such notice as the Seller may think fit and without explanation and consequent thereon the Seller may refuse to deliver all or part of the Goods unless full payment of the price is made in accordance with Clauses 5.1 and 5.2.</p> <p>6 DELIVERY</p> <p>6.1 Unless Clause 6.3 hereof applies, the Buyer shall make arrangements for collection of the Goods at the Buyer's expense.</p> <p>6.2 Collection of the Goods by the Buyer shall constitute delivery.</p> <p>6.3 If the Buyer so requests in writing and the Seller agrees in writing the Seller shall arrange for delivery of the Goods to an address specified by the Buyer. Any such delivery shall be on the basis that upon demand the Buyer shall pay the cost of transportation and insurance of the Goods in full and in advance to the Seller.</p> <p>6.4 Delivery of the Goods by the Seller shall be conditional upon free access being available to the Seller's (or the Seller's carrier's) vehicles to the address for delivery. Deliveries by the Seller may be made using large vehicles. It is the Buyer's responsibility to inform the Seller of any access problems no later than 48 hours prior to the delivery of the Goods. If delivery of the Goods is not possible in the opinion of the Seller then the Seller reserves the right to cancel the order without penalty.</p> <p>6.5 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Sellers reasonable or the buyer's fault and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the goods.</p> <p>6.6 If it has been agreed in writing between the Seller and the Buyer that the Seller will deliver the Goods by instalments, each instalment shall be a separate Contract and no cancellation or termination of any one contract relating to an instalment shall entitle the Buyer to cancel any other Contract or instalment.</p>	<p>7 WARRANTIES AND LIABILITIES</p> <p>7.1 The Seller warrants to the Buyer that the Goods shall, at the time when the Buyer is notified that they are ready for collection (or at the time of dispatch, as the case may be under Clause 6) and subject to Clauses 3.3 and 3.4:</p> <p>7.1.1 Be of satisfactory quality within the meaning of Section 14 of the Act;</p> <p>7.1.2 Be fit for purpose;</p> <p>7.1.3 Conform to the description expressly stated in the Contract or, where applicable, to the sample exhibited to the Seller before the Contract is entered into subject clause 3.3 and 3.4.</p> <p>7.2 The Buyer's rights under Clause 7.1 shall not be assignable.</p> <p>7.3 Any claim by the Buyer against the Seller under Clause 7.1 must be made by notice in writing given to the Seller within 72 hours from delivery failing which the Seller shall not have any liability in respect of the Goods and the Buyer shall be bound to pay the price. The time for such notice shall be of the essence, the buyer and the seller agreeing that due to the nature of the goods such time is reasonable.</p> <p>7.3.1 The Buyer shall not be entitled to make any claim in respect of the quality of the Goods after they have been sold by the Buyer to a third party unless a retail guarantee has been agreed between the Buyer and the Seller;</p> <p>7.3.2 Where a dispute arises between the Buyer and the Seller as to the quality of the Goods, the matter shall be referred, failing agreement between the parties, then an independent expert appointed by the British Christmas Tree Growers Association. The decision made by the expert shall be binding on the parties who shall bear the costs of such process in equal shares.</p> <p>7.4 Goods delivered on pallets must be removed from the pallets by the Buyer and placed in vertical position within 48 hours from the time displayed on the Seller's (or the Seller's carrier's) delivery note signed by the Buyer's authorised representative. If the Buyer fails to remove the Goods from the pallet and/or place them in vertical position within the 48 hour period provided in this Clause 7.4, the Seller will not be liable in any way whatsoever for any deterioration of the Goods' condition or continuing quality.</p> <p>7.5 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reasons of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the seller's reasonable control. Without prejudice to the generality of the forgoing the following shall be regarded as causes beyond the Seller's control:</p> <p>7.5.1 Act of God, explosion, flood, tempest, heavy snowfall, fire or accident;</p> <p>7.5.2 Acts, restrictions, regulations, bye-laws, prohibitions, or measures of any kind on the part of any governmental parliamentary or local authority.</p> <p>8 RISK, LIEN AND TITLE</p> <p>8.1 Goods shall be at the Buyer's risk from the date they are tendered for delivery.</p> <p>8.2 Notwithstanding delivery having been made, the property in the Goods shall not pass to the Buyer until payment in full (together with any interest payable in respect thereof) has been received by the Seller for the Goods and for all other Goods supplied to the Buyer and the Seller.</p> <p>8.3 Until property in the Goods passes to the Buyer in accordance with clause 8.2:</p> <p>8.3.1 The Seller shall have absolute authority to retake, sell or otherwise deal with or dispose of all or any part of the goods in which title remains vested in the Sellers;</p> <p>8.3.2 For the purpose specified in 8.3.1 above, the Seller or any of its agents shall be entitled at any time and without notice to enter upon any premises in which the Goods are stored or kept or are reasonably believed so to be;</p> <p>8.3.3 The Seller shall be entitled to seek a Court injunction to prevent to Buyer from selling, transferring or otherwise disposing of the goods.</p> <p>8.4 Insofar as Goods are held by the Buyer in accordance with clause 8.3 hereof but prior to and sale thereof, the said Goods shall be stored separately from all other Goods in the Buyer's possession and shall be marked in a way that they are clearly identified as the Seller's property.</p> <p>8.5 The Buyer shall not pledge or in any way charge by way of security for any indebtedness, any of the Goods which are property of the Seller. Failure to comply with this clause shall entitle the Seller to make a demand in respect of all sums owing by the Buyer to the Seller which shall forthwith become due and payable.</p> <p>8.6 The Buyer shall insure and keep insured the Goods to the full price thereof against 'all-risks' to the reasonable satisfaction of the Seller until the date the property in the Goods passes from the Seller, and shall whenever requested by the Seller produce a copy of the policy of insurance. Failure to comply with the Clause shall entitle the Seller to make demand in respect of all sums owing by the Buyer to the Seller which shall forthwith become due and payable.</p> <p>9 LOSS OF PROFIT/LIMITATION OF LIABILITY</p> <p>9.1 In any event and notwithstanding anything contained in this Contract the Seller's Liability in contract, tort (including negligence or breach of statutory duty) or otherwise arising by reason of or in connection with this contract (except in relation to death or personal injury caused by the negligence of the Seller or its employees which acting in the course of their employment) shall be limited to the contract price.</p> <p>9.2 Notwithstanding clause 9.1 and anything contained in the contract in no circumstances shall the Seller be liable in contract tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause thereof:</p> <p>9.2.1 For any increased cost or expenses;</p> <p>9.2.2 For any loss of profit, business contracts, revenues or anticipated savings; or</p> <p>9.2.3 For any special, indirect or consequential damage of any nature whatsoever.</p>
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<p>10 INSOLVENCY OF BUYER</p> <p>10.1 This clause applies if:</p> <p>10.1.1 The buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or</p> <p>10.1.2 An encumbrancer takes possession, or receiver is appointed, of any of the property or assets of the Buyer; or</p> <p>10.1.3 The Buyer ceases, or threatens to cease to carry on business; or</p> <p>10.1.4 The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the buyer and notifies the Buyer accordingly.</p> <p>10.2 If this clause applied then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Seller, and if the Goods have not been paid for by the Buyers shall at the option of the Seller, make any goods still at his premises available for collection by the Seller and the price for the Goods shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary, credit to be given for any Goods collected by the Seller.</p> <p>11 CANCELLATION</p> <p>If the buyer is in default as to payment or collection for previous orders, the Seller may cancel all outstanding orders without any liability.</p>	<p>12 QUALITY</p> <p>The Seller warrants the authenticity of the plant species is as stated on the order. However in view of the nature of the products being natural perishable Goods no warranty or representation (save as provided in statute) can be given in respect of growth or shelf life of the Goods following the date of delivery.</p> <p>13 NO WAIVER</p> <p>No forbearance or indulgence of the Seller's part in enforcing these Conditions shall prejudice the Seller's strict rights under these Conditions nor shall it be construed as a waiver of such rights.</p> <p>14 SEVERANCE</p> <p>If any of these conditions are rendered or held to be void or unenforceable in the whole or in part, then it shall be unenforceable only to the extent that it is shown that it would not be lawful, fair or reasonable to allow reliance upon it and no further and the remaining Conditions shall remain in full force and effect.</p> <p>15 GOVERNING LAW</p> <p>This contract is governed by the laws of England</p>
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