

General Terms and Conditions of Delivery and Business Preamble

The Katharina von Ehren – International Tree Broker GmbH is a limited liability company which trades with plants but does not have its own plant cultivation. The trading company cooperates with various selected tree nurseries. The Katharina von Ehren – International Tree Broker GmbH continually checks the level of quality by selecting the plants personally and only works with the highest quality nurseries. The Katharina von Ehren – International Tree Broker GmbH and their national and international trading partners stand for nursery plants which are of the highest quality and are transplanted regularly.

§ 1 General – Validity

1. The following terms and conditions of contract apply to all contracts of purchase, transactions and offers between the Katharina von Ehren – International Tree Broker GmbH and the buyer.

They become valid at the latest on placement of order or acceptance of delivery. They also apply for all future business relations even if not explicitly agreed or confirmed in writing by us or the client.

2. Different or additional agreements must be made in writing. General business conditions of the customer which we have not expressly acknowledged in writing shall not be binding for us, even if we do not expressly contest them.

§ 2 Quotations, measurements and conclusion of contract

1. Quotations from Katharina von Ehren – International Tree Broker GmbH are non-binding and subject to confirmation according to their availability, unless the Katharina von Ehren – International Tree Broker GmbH has expressly confirmed their binding nature in writing.

2. The validity of the sales prices is stated in the respective quotation provided for the buyer by the Katharina von Ehren – International Tree Broker GmbH.

3. When ordering individual items from the overall range the prices only apply with our express agreement.

4. All of the dimensions – provided it is not the trunk circumference – are approximate measurements. Small plus or minus deviations are permissible.

§ 3 Prices / Terms and conditions of payment

1. All prices apply without packaging ex works or, in this case, ex nursery in euro plus the statutory VAT that is valid on delivery.

2. If no other written agreement has been made with the buyer, the sales price (without deduction) is due for payment within 14 days after date of invoice.

3. Should the buyer fall into arrears with a payment, the Katharina von Ehren – International Tree Broker GmbH is entitled to demand interest at the amount of 5% over the applicable base lending rate of the European Central Bank (ECB) from that time onwards. The Katharina von Ehren – International Tree Broker GmbH reserves the right to provide evidence of a higher amount of damage.

4. The buyer can only offset undisputed and legally established counterclaims.

5. Noncompliance with the terms of payment or circumstances which give rise to doubts as to the creditworthiness of the customer, result in the immediate maturity of all outstanding receivables. We can then withdraw from all contracts which have not been carried out so far.

§ 4 Fulfilment of Contract

1. Withdrawal by the buyer

a) Should the buyer wish to withdraw from whole or part of the purchase contract, then our agreement is required. If written consent has not been given, we are entitled to claim compensation from the buyer for noncompliance with the contract. The amount of damage incurred is, without any evidence, 30% of the value of goods. Should more economic damage have been incurred, we can also claim these damages on production of evidence.

b) Should the buyer be in arrears with the acceptance of the goods, then we are no longer bound by the terms of the §375 HGB (German Commercial Code) and we are entitled to, without previous notification or warning, sell the plants privately and at any price we deem acceptable to compensate for the invoice of the defaulting customers.

2. Withdrawal by the vendor

a) We are entitled to unilaterally dissolve a sale that has already been made if the buyer has not yet fulfilled obligations from previous deliveries up to the time of the execution of the new order. If the order has already been executed, then we are entitled to shorten previously conceded payment times and to revoke other privileges that were previously consented.

b) If damage or faults are noticed on individual plant species before their dispatch, which make them appear unsalable, then we are released from the delivery of these species.

c) If the execution of confirmed orders becomes impossible due to weather catastrophes, damage from hail, frost or drought, due to other acts of God and because of strikes, lockouts, operating or traffic delays, public unrests, intervention by public authorities, currency changes or other impediments for which the vendor is not responsible, the obligation to deliver the goods does not apply.



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§ 5 Dispatch, Delivery times and service times

1. Dispatch occurs on the account of and at the risk of the buyer. If the buyer is responsible for circumstances which result in the delay of the goods' dispatch, then the risk is transferred to the buyer from the day on which the goods are ready for dispatch.
2. All additional costs e.g. packaging, f.o.b. – costs, certificates and transport insurance (unless the latter is expressly not required) are borne by the buyer. Packaging material cannot be returned.
3. If the buyer does not stipulate any transport specifications, the Katharina von Ehren – International Tree Broker GmbH is entitled, at our own discretion, to carry out the dispatch in the way which we deem most appropriate without assuming responsibility.
4. The delivery counts as fulfilled as soon as the goods have left the premises of the respective plant grower.
5. Katharina von Ehren – International Tree Broker GmbH is entitled to part deliveries and part services at any time, in so far as this is reasonable for the buyer.

§ 6 Guarantee, Liability

1. A guarantee that the plant will grow, i.e. that the plant will establish itself and grow at its new location is not given.
2. Cases of acts of God, in particular drought, frost, frost drought, pest infestation, snow pressure, storm damage are fundamentally beyond our control.
3. Substitution for missing types, varieties and species is permissible after consultation with the buyer and with appropriate price changes.
4. Companies should inspect the goods delivered by us immediately and advise us, in writing, of any defects or faults; otherwise the assertion of warranty claims is excluded. The company is nevertheless responsible for the full burden of proof for all prerequisites for claims, in particular for the defect or fault itself, for the time of determining the defect or fault and for the timeliness of the complaint. Consumers should also inform us immediately, in writing, in the event of determining a defect or fault. Should the consumer fail to notify us, all warranty rights expire within two weeks of determining the fault. The full burden of proof for the time of determining the fault lies with the consumer. If the purchased item is a living plant, the consumer has to, in the event of the death of the plant, infestation with pests or another disease of the plant, then the consumer is responsible for the burden of proof that the state of the plant has not been caused by improper handling of the plant after it had been handed over to the consumer.
5. If the customer chooses to rescind the contract owing to a legal or material defect after unsuccessful rectification, then he is not entitled to claim for compensation regarding the defect. If the customer chooses compensation after unsuccessful rectification, then the goods remain with the customer if it is reasonable. The compensation is limited to the difference between the purchase price and the value of the faulty goods. This does not apply if we caused the breach of contract fraudulently.
6. For companies, the warranty period is one year from the date when the goods are delivered. For consumers, the limitation period is two years following delivery. This does not apply, if the customer has not notified us of the fault or defect in good time (see point 4 of these conditions)

§ 7 Revocation instruction

1. On conclusion of a remote purchase transaction, consumers fundamentally have the statutory right to revoke this transaction. In accordance with statutory regulations, we will inform you in the following on this matter. A consumer is every natural person who enters a legal transaction with the purpose that neither serves their business interest nor their freelance work. The exceptions to the right to revoke the transaction are covered in paragraph 2.

Right of Revocation

You have the right to cancel this contract without providing reasons within fourteen days. The period for revocation is fourteen days and begins on the day on which you or a third person designated by you, who is not the carrier, has taken the goods into possession.

In order to exercise your right to revocation, you must send us (International Tree Broker GmbH, Buttstraße 4, 22767 Hamburg, Telephone: +49 40 - 33399499 - 30, Fax: +49 40 -33399499 - 80, E-Mail: info@katharina-von-ehren.de) an unambiguous declaration (e.g. a postal letter, a telefax or an email) of your decision to revoke this contract. You may use the attached form; however, this is not mandatory.

To adhere to the period of revocation, it is sufficient to send the declaration before the end of the revocation period.

Consequences of Revocation

If you revoke this contract, we must refund all payments which we have received from you, including the shipping costs (with the exception of those additional costs that arise from your choosing a shipping method other than the cheapest, standard shipping offered by us) without delay and within fourteen days starting from the day that we received your declaration of revocation of the contract. We will use the same method of payment for the refund as used in the original transaction, unless we have explicitly agreed otherwise with you. In no case will we charge any costs due to the refund.

We can deny the refund until we have received the goods or until you have provided sufficient proof that you have sent the goods, depending which is the earlier date.

You are obliged to return to us the goods without delay and at the latest within fourteen days starting from the day on which you have informed us of the revocation of the contract. The deadline is complied with when you send the goods before the period of fourteen days ends.

You bear the immediate costs of the return of the goods.

You are responsible for a possible loss of value only in cases where this loss of value is due to treatment of the goods that was not necessary to assess the quality, properties and functionalities of the goods.



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(2) The right of revocation does not apply to the following contracts:

- Contracts to supply goods that are not prefabricated and the manufacture of which requires an individual selection or the purpose is relevant to the consumer or the goods are tailor-made to the personal needs of the consumer,
- Contracts to supply goods that may spoil quickly or whose expiration date would be exceeded quickly.

§ 8 Complaints

1. Legitimate faults must be reported in writing to Katharina von Ehren – International Tree Broker GmbH immediately, at the latest however within 3 days of receipt of plants. The faults must be recorded in photographs and must be reported accurately and exactly.
2. We are entitled to provide replacements for the defective goods or to cancel the order and supply a credit note to the amount of the invoice value under the exclusion of further claims.
3. Claims for damages can only be made to the amount of the net value of the invoice. All further claims are fundamentally excluded. Only those claims for damages which are based on an intentional or a gross negligent breach by the vendor or her agents are not excluded.
4. Delayed claims or those which were raised incorrectly will not be taken into consideration.

§ 8 Reservation of proprietary rights

1. The delivered plants remain our property until all demands arising from the business relations between us and our buyer have been paid in full.
2. The reserved property is not forfeited if the buyer temporarily stores, settles or plants the delivered plants at his or at another plot of land. The buyer is obliged to do this in a way that the plants remain recognizable as those purchased from the vendor. The buyer commits himself to allow the vendor access to the appropriate documents if necessary.
3. The customer must inform the Katharina von Ehren – International Tree Broker GmbH about any third party accesses, in particular about any foreclosure or seizure procedures or other impairments to their title immediately and in writing. The customer shall compensate us for all damages and costs arising from a breach of this obligation and from necessary intervention measures against third party accesses.

§ 10 Concluding provisions, applicable law and place of jurisdiction

The relations between the contract parties are subject exclusively to the laws of the Republic of Germany. The UN Sales Convention does not apply. Place of fulfillment and sole court of jurisdiction is the place of business of the Katharina von Ehren – International Tree Broker GmbH in Hamburg.