



INLAND DESERT INC

WASHINGTON STATE CERTIFIED GRAPEVINE NURSERY

32508 West Kelly Road + Benton City, WA 99320

p 509 588 6615 + f 509 588 6614 + www.InlandDesertInc.com

Sales Agreement for Grapevine Nursery (page1)

10-10313

Zirkle Fruit Company

PARTIES & GOODS: This Sales Agreement ("Agreement") is entered into between Inland Desert, Inc. ("Seller") and _____ ("Buyer"), (collectively referred to as "Parties"), regarding the sale of goods referred to in the attached order # _____ ("Order"), which is incorporated herein.

DISCLOSURE REGARDING GRADE AND SIZE OF GOODS: Parties understand and agree that Seller's current inventory is based on estimated nursery yields, and that Seller's acceptance of Buyer's Order in the stated quantities is contingent upon Seller successfully yielding its estimates. Seller will attempt in good faith to grow stock in quantities as close as possible to the estimated yields. Seller will not have an actual inventory count until digging and sorting is completed. Lower grade vines may be substituted by Seller to fulfill this incorporated Order at delivery time if necessary. Seller cannot guarantee grade and size of vines until delivery. If Seller must substitute lower grade vines, Buyer's final invoice shall be discounted according to grades received, per plant, as follows: #2 - \$.05 discount per plant; #3 - \$.25 discount per plant; #3b - \$.30 discount per plant.

PAYMENTS & DEPOSITS: Buyer agrees to pay all requested deposits within 30 days of any statement date. To confirm this Order, Buyer must also sign and return a copy of this Agreement. Fifty-percent (50%) of the total vine price is due upon confirmation & signed acceptance of this Agreement. Payment of this deposit constitutes acceptance of this agreement even if not signed. The balance is due after delivery once final invoice is received by Buyer. Final invoice will receive a grace period of Net 30. A service charge on overdue account balances will be paid at 1% per month (12% per annum) compounded monthly from the original invoice date. Buyer's deposits shall be refunded in full for any goods Seller is unable to supply. Buyer may also elect to have deposits held on account and accept delivery the next planting season. If Buyer cancels this Order, deposits made hereunder are nonrefundable unless Seller can resell the goods ordered hereunder.

FULL BUNDLES: All goods delivered must be accepted in pre-bundled units of 15 or 25 as determined by Seller. Orders will be rounded up to these required increments. Bundles cannot be broken. The only exception is the need for replacements.

NON-DELIVERY OF PLANT MATERIALS: All orders are accepted without liability for nonperformance if strikes, labor shortages, crop conditions, delay in transportation, weather, casualty, error in count or any matters



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Sales Agreement for Grapevine Nursery (page2)

beyond the control of Seller prevent delivery. Seller is not responsible beyond a deposit refund if a partial or full crop failure affects deposit orders in numbers of plants anticipated. If this is to occur, orders will be honored according to deposit dates.

WARRANTIES: EXCEPT AS PROVIDED HEREIN, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES IN REGARD TO THIS SALE OR THE SUITABILITY FOR THE PURPOSES OF PURCHASER'S USE OF ANY GOODS SOLD HEREUNDER. THE FOLLOWING WARRANTIES ARE MADE AS PART OF THE BARGAIN BETWEEN SELLER AND BUYER HEREIN, AND SAID WARRANTIES ARE MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES OR REPRESENTATIONS BY SELLER. SELLER WARRANTS ONLY THAT its plant materials are: 1) true to name as described in the Order; 2) carefully grown; 3) properly graded for uniformity of size and quality; 4) carefully stored to maintain their high quality; 5) carefully packed to reach you in the best possible condition; and 6) shipped in good, live condition. All nursery stock carries a Washington State Department of Agriculture certificate that plant materials have been inspected and are visibly free from injurious insects and plant diseases. Seller cannot assure detection of nonvisible plant diseases, virus or defects, and does not warrant nursery stock to be free of nonvisible plant diseases, viruses or defects. "Certified" planting material is the result of a process that is outlined in State code and is administered by the State's Dept. of Agriculture. It is a process where a nursery acquires State Registered Foundation planting stock and plants this material in a State registered Increase/Mother block for subsequent propagation purposes. The resulting propagated vines from the Increase/Mother block can be sold as "State Certified" and can be tagged as such. It is the responsibility of both the State's Dept. of Agriculture and the certified nursery to maintain the 'Registered' status of the Registered Increase/Mother blocks. The Certification tag is the end result of a process controlled by the State's codes. Because growth of nursery stock is determined to a large extent by the care it receives from the planter and grower due to conditions beyond Seller's control including, but not limited to soil, weather, purchaser's negligence and improper use of chemicals or fertilizers, Seller cannot and does not warrant or guarantee growth. Seller may, depending on availability, provide to Buyer, a 50% credit (calculated from the prior year invoice and assuming the lowest grade vines delivered failed to grow), towards replacement vines, provided that Seller notifies Buyer of loss in writing no later than August 1st following planting, not to exceed 2-1/2% of vines planted no later than April 30th, and provided that all other terms of this Agreement have been met. Exhibition of a sample or model of the goods



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Sales Agreement for Grapevine Nursery (page3)

shall not create an express or implied warranty that the goods shall conform to the sample or model. BUYER AGREES THAT "GREEN-POTTED" or "MIST-PROPAGATED" VINES ARE SOLD AS-IS IN GOOD LIVE CONDITION AND SHALL NOT BE REPLACED UNDER ANY CIRCUMSTANCES.

RETURN POLICY: Seller agrees to deliver vines in good live condition. There is no reason for vines to be returned. Should circumstances arise where plant material is not needed, Buyer must contact Seller for approval of return. In order for charges to be removed from Buyer's invoice, an alternate sale must be arranged. Vines will only be accepted if returned in the same condition as when delivered and are in full, undisturbed bundles.

CLAIMS OR REFUNDS: Buyer agrees that all claims made concerning misshipment, faulty count, erroneous invoicing, inferior quality as shipped, or any other such claim attributed to Seller, MUST BE MADE IN WRITING NO LATER THAN TWO (2) WORKING DAYS AFTER MERCHANDISE IS DELIVERED. Seller has no responsibility for damages to plant materials incurred during shipping when shipped on contracted carrier. Risk of loss is on Buyer from time of delivery of merchandise to contracted carrier or Buyer. If any plant materials are proven to be in violation of the above warranties, Seller will either: (a) replace at its expense such original plant materials F.O.B. point of shipment to Buyer; or, at its option, (b) refund the original purchase price of such plant materials less any freight paid by Seller. PARTIES AGREE THAT UNDER NO CIRCUMSTANCE SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL OR SPECIAL DAMAGES OR FOR ANY AMOUNT GREATER THAN THE ORIGINAL PURCHASE PRICE OF THOSE PLANT MATERIALS THAT ARE IN VIOLATION OF THE ABOVE WARRANTY. With respect to plant material being untrue to name, if Seller is notified by November 1st following its first fruiting season that plant material delivered to Buyer is not of the variety described on the invoice, Seller will either replace the item F.O.B. its shipping point or refund the purchase price of the item, less any freight or charges paid by Seller.

LIMITED LICENSE: The price of some of the plants purchased by Buyer may include a plant patent and/or trademark royalty. In exchange for those royalty payments, Seller grants to Buyer a limited, non-exclusive license to use the plant for the sole purpose of growing, harvesting and selling the crop obtained from the plant. This license does not include the right to propagate the plant in any manner, for any purpose.

TAXES: Any taxes, such as sales tax, use tax, value added tax and any other tax by any government body is the responsibility of the purchaser. Buyer certifies that all items except as indicated to the contrary herein are



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Sales Agreement for Grapevine Nursery (page4)

purchased for use to reimburse the Seller the sales tax if used or consumed otherwise.

INSOLVENCY, DISPUTES AND VENUE: If Buyer becomes insolvent or has any bankruptcy or reorganization proceeding filed by or against it or fails to perform any other obligation imposed herein or by law, Buyer shall be in default and Seller may immediately enforce any and all of the remedies provided by law, including cancellation hereof. Buyer agrees that Seller retains a security interest in any and all materials until all terms of this Agreement are satisfied. The purchase herein provided and the terms thereof shall be interpreted according to the laws of State of Washington. In the event of dispute regarding the terms of this purchase or in the event of collection action brought by Seller hereon, exclusive jurisdiction thereof shall be in the State of Washington with venue in Benton County. The prevailing party in such dispute or in any collection proceeding, whether in or out of court shall be entitled to all reasonable attorney's fees and expenses incurred in the resolution of such dispute or in collection hereunder.

ASSESSMENT: A 5% Washington State assessment will be charged to Seller to support the foundation vineyard at W.S.U. and other grapevine improvement projects recommended by the Grapevine Advisory Committee.

ENTIRE AGREEMENT: Buyer and Seller agree that this Agreement represents the complete and exclusive statement of the agreement between the Parties, and supersedes all proposals or prior agreements, oral or written, and all other communications between the Parties relating to the subject matter hereof. Acceptance of all terms and conditions of this Agreement is indicated by the signature of Buyer, below, or acceptance of delivery of the plant materials described in the Order. This is a contract between Buyer and Seller and all orders taken by agents are subject to confirmation through the business office of Inland Desert, Inc. in Benton City Washington. This agreement cannot be assigned by Buyer without the prior written consent of Seller. If any portion of this agreement is deemed to be invalid or is found to have been changed, modified or waived, the remainder of the agreement remains in full force and effect. **THIS IS A CONTRACT. DISCLAIMER OF WARRANTIES AND OTHER IMPORTANT CONTRACT TERMS ARE AN INTEGRAL PART OF THIS CONTRACT. THIS DOCUMENT REPRESENTS THE WHOLE AGREEMENT BETWEEN SELLER AND BUYER.**



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Sales Agreement for Grapevine Nursery (page5)

At Inland Desert, Inc. we are dedicated to the satisfaction of our customers.

I have Read and Accept the Terms and Conditions Contained on Both Sides of This Agreement, which are 10-10313

in reference to the attached order: # _____, which is also incorporated herein.

Zirkle Fruit Company
INLAND DESERT, INC.

Seller: _____

Buyer: _____

By: _____

By: _____

Title: _____ Date: _____

Title: _____ Date: _____