

Danziger “Dan” Flower Farm GENERAL TERMS AND CONDITIONS

1. General

The following General Terms & Conditions (the “**Terms**”) for the sales and delivery of products apply to Danziger “Dan” Flower Farm’s (herein “**Danziger**”) entire range of products and all orders placed (the “**Service**” or the “**Order**”). They apply to all territories and to all customers worldwide (the “**Customer /s**”).

No modification of these Terms shall be effective unless in writing signed by Danziger. Placement of the order shall constitute Customer’s acceptance of these Terms.

All orders are subject to acceptance by Danziger.

In these Terms, “**Products**” will have the following meaning: plants, including different plant material cultivars, in any possible form or shape, such as and not limited to: plantlets, seeds, seedlings, rooted cuttings, un rooted cuttings, bulbs, tissue cultures as well as cultivation material and/or ornamental and horticultural plants as well as horticulture materials, owned by Danziger and/or Products that Danziger has rights by third party/ies to control and/or to license.

These Terms refer to all possible Customers – male, female, single, plural. Only for convenience there is a use of masculine language in the Terms.

2. Offers and Orders

All offers by Danziger in Product catalogues, ordering lists or specific quotes, including all offers on internet, are non-binding. For that reason, Danziger can refuse any order with respect to any offer within 7 days from the order date without need for explanation. Danziger does not sell to private persons.

Any new Customer should fill in “Information Form For New Customer” to be supplied by Danziger’s staff, which shall include at least the full address of the Customer, together with the nearest airport and courier account information if applicable. Danziger is under no obligation until written confirmation of the Order has been received.

The Customer should exclusively refer in his acceptances and in his orders to Product names and numbers as mentioned in Danziger’s catalogues and ordering lists. In the case of special production, the applicable names and numbers are as used by Danziger in the correspondence with Customer.

3. Cancellation Policy

Orders by the Customer are irrevocable, unless Customer performs within the provisions below: Cancellations for un-rooted cuttings must be received at least 21 days prior to scheduled ship date. Cancellations for rooted cuttings must be received prior to stick date, and no less than 30 days in advance.

If the Customer cancels any order for whatever reason, after the time frame mentioned above, he is still obliged to pay the full Order price.

4. Prices and Payment

Effective price will be calculated according the current season catalogue and price list. VAT and all other obligatory relevant taxes will be added if applicable.

Unless mentioned otherwise, all prices quoted are exclusive of all cost of third party licensee rights and of cost of transport or delivery charges.

Payment must take place according to terms of invoice submitted to Customer per each order, and in invoiced currency, unless advance payment has been stipulated. In case delivery has taken place but an invoice has not yet been sent, the Customer shall pay the agreed upon price within 30 days from delivery. Any certificates for deduction of tax at the source will be submitted by due date for payment.

In addition to all other rights and remedies available to Danziger, Danziger shall be entitled to charge 2% per month or the maximum rate allowed by law, for all amounts past due date and until date of actual payment. In addition, Danziger is entitled to charge a fee of US\$25 or either the actual bank fee for any returned check or unaccepted wire transfer/ bank transaction.

All payments by Customer will take place without a Customer's right of suspension, discount or set off, into a bank account as directed by Danziger.

At the request of Danziger, the Customer shall offer security for his present or future obligations.

All costs of collection incurred by Danziger, both of a court procedural or non-procedural nature, are on account of the Customer.

The minimum quantity per Order and/or shipment is according to the quantities listed in the current season's price list. In the case of Orders and/or shipments smaller than the minimum quantity, a levy and freight fee will be charged.

Freight, handling, packing and documentation costs are listed in the current season's price list.

5. Delivery

Delivery date stated by or agreed with Danziger is approximate delivery only. Delivery will take place within a reasonable period, upon the assumption of timely delivery by third parties of all materials/Products necessary for the implementation of the Order.

Exceeding any delivery period with a maximum of 7 days does not entitle the Customer to cancel the Order, and also not to any damages.

Delivery is Carriage Paid To (CPT), unless otherwise agreed, in advance, and in writing by Danziger. Upon delivery, the risk connected to the Products will be transferred to the Customer. Danziger shall undertake delivery at its own discretion, under safeguard of the Customer's rights and risk.

Transportation insurance coverage is not supplied by Danziger. All packaging, insurance, transportation and carriage expenses are the responsibility of the Customer.

6. Delays, Shortages & Substitutions

Danziger shall not be responsible for delays in delivery or for losses resulting from such delays. Danziger reserves the right to ship partial Orders and/or cancel Order. In the event of shortages, Danziger may substitute such other similar merchandise as is available, as per Customer's preference.

Delivery of 5% more or 5% less of the amount of plant material as stated in the Order will be regarded full completion of the Order.

A delay in delivery of over 14 days, that was not coordinated in advance with the Customer, entitles the Customer to cancel the Order in whole or in part, in writing within 7 days after the 14 days period. In such case of late performance, Danziger is also entitled to cancel the Order in part or in whole. Nevertheless, Danziger shall not owe the Customer any damages.

Customer will clear delivery immediately upon arrival of shipment. In the eventuality that Customer has received notification of delayed delivery, Customer will inform Danziger of the delay and will release delayed shipment under protest due to questionable quality of Products.

Please inform Danziger's Shipping Department at Tel: +972-3-9602525 or email to: shipment@danziger.co.il to report the delay and get further assistance.

7. Notice of Damaged Products

Danziger sells its Products at no less than acceptable trading quality. Deliveries must be inspected upon receipt.

Any damage or shortcomings in the delivery must be reported to Danziger in writing within 24 hours from the date of receipt. In any event, accompanying documentation from the transport company must be attached. In addition, in the event of quality damage, photos of the damaged products must be attached.

Complaints with respect to the number or the appearance of products (other than in relation to the quality delivered or immediately visible damages) must be issued to Danziger in writing within 14 days from delivery. Due to the possibility of latent diseases the Customer is obliged to carry out testing and to submit complaints immediately upon observation of problem, and in no more than 28 days. If no written complaint has been received within the specified period, the goods shall be deemed to have been delivered free from disease.

It is hereby stated that, once the plant material has been planted, Danziger will not be held responsible for any damage. Planting of plant material shall serve as additional proof of Product compliance. Nevertheless, complaints with respect to the germination, genuineness or purity of a variety must be issued to Danziger in writing immediately after discovery, and within the maximum of 60 days after delivery.

All damage claims should be supported with a written statement the reason for the compromised quality, the Order number or invoice number and pictures of damaged Product. The Customer shall hold all Products that he has complained about at Danziger's disposal for evaluation and inspection.

The Customer's claims in connection with complaints with respect to the Products delivered are legally barred from pursuing in the event that Customer has not met with the abovementioned obligations and related time periods. All Customer's claims are equally barred and without legal effect if the Customer has already traded or delivered the Products, or if they are changed or processed or if the Customer is in breach with the fulfilment of any obligations that he has towards Danziger under the Terms.

Please fill out the Quality Notification Report in the Danziger Online Ordering System or email us at: customerservice@danziger.co.il to report the damage and get further assistance.

8. Warranty and Liabilities

Legal information is not legal advice.

By continuing to use our Service you agree to be bound by the Terms. If you do not agree to the Terms, please stop using the Service. THE SERVICE IS PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS, WITHOUT WARRANTIES OF ANY KIND. TO THE FULLEST EXTENT POSSIBLE PURSUANT TO APPLICABLE LAW, DANZIGER DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS.

You further acknowledge and agree that Danziger, or any of Danziger's affiliates, officers, employees, and agents, shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with any use of Products or Services.

Danziger warrants, to the extent required by law that Products conform to the description appearing in Danziger's catalogue and on container labels, within recognized tolerances. Danziger makes no other warranty, explicit or implied. Danziger will not be responsible for mutations of plant material or variation of plant material of up to 5% variation. No guarantee can be given for the complete absence of any plant-inherent pathogen nor seed-borne diseases of the Products sold.

Danziger undertakes to supply plant material which, within the framework of current technical possibilities and equipment, has been laboratory tested.

Danziger gives no guarantee or warranty for achieving the purpose or result which the Customer seeks to realise with the Products purchased, even if advice is given by Danziger related to the use of such Products with a view to such purpose or result.

In the event of a well-founded complaint, Danziger's sole and exclusive remedy shall be limited to the purchase price, and Danziger, at its own discretion, may exchange or replace the Product, or grant Customer with a credit or refund not exceeding the purchase price. Under no circumstances shall Danziger be liable for damages in excess of the purchase price, or any special, incidental, indirect or consequential damages.

9. Indemnity

By accepting the Products, Customer agrees to defend Danziger and to hold harmless and indemnify Danziger, its employees, its independent contractors and its representatives for each claim by third parties in connection with the Products delivered, the advices rendered and/or any other part of the Terms implemented by Danziger.

If the Customer does not fulfil one or more of his obligations, or does not fulfil them on time or adequately, is declared bankrupt, requests (temporary) moratorium, or proceeds with the liquidation of his business, or if his assets are attached in whole or in part, Danziger is entitled to suspend the implementation of the Terms or to rescind the Terms in whole or in part, at its option, by a written statement without the need for a prior notification of default, and with full reservation of any claim to which it is entitled for cost, damages and interest.

Danziger shall have all rights to set off any commitment or debts of Customer to Danziger, with any commitment or debts of Danziger to Customer.

10. Intellectual Property Rights

The Products shall remain the property of Danziger until full payment of all claims, including claims for damages, costs and interest.

In these Terms, "**Proprietary Rights**" shall mean: Any patents, breeder's rights, shape, name, package, trade name, trademark, emblem, designs, and any other factor pertaining to the Products, and/or any Know-How and/or any information pertaining, directly or indirectly, thereto and any verbal or visual description or mark thereof, whether any of the above are registered by any patent authority worldwide and/or under the Plant Variety Protection Laws or Plant Breeders Rights Protection laws or Trademark laws of various other sovereign nations and/or any other applicable law, or unregistered.

All rights and titles in and to the Products, and any and all inventions, discoveries, ideas, specifications, improvements, enhancements, derivatives, modifications, adaptations, techniques and products, works of authorship, know-how and proceeds, conceived, conducted, designed, developed, reduced to practice, compiled, created, written, authored, made and/or produced by Danziger, alone or jointly with others, pursuant to, in connection with, resulting or arising from the Products, including without limitation, any relating know-how, information and data and all intellectual, industrial and/or proprietary rights, shall be considered the exclusive Proprietary Rights of Danziger's.

Sport, variation or mutation (“**Mutation**”) resulting from any use of Products, whether such sport, variation or mutation is considered an essential derived variety (EDV) under any applicable law, or not, must be reported immediately, and no later than 3 days, to Danziger in writing. All Mutations belong exclusively to Danziger. Customer shall maintain all Mutations until instructions for handling are received from Danziger. Danziger shall be entitled to test and carry out an inspection of the Mutation at the site of the Customer, or may have a test carried out by an authorized third party, as well as to request samples of the relevant Mutation.

Danziger reserves the right to inspect Customer’s premises (greenhouses, fields etc.) during accepted business hours without the need of any advance warning to check enforcement of Danziger’s Proprietary Rights. Danziger is entitled to request inspection of Customer’s records for verification of fulfillment of the provision and obligations of this Section.

The Customer is only allowed to sell the Products under the applicable variety name and any applicable trade name as designated by Danziger.

The supplied Products may only be used for plant cultivation and not for any other purpose. Propagation (including for own use) is only permitted with the special and written permission of Danziger given in advance.

The Customer grants permission to wholesalers, auctions, importers and/or exporters to provide information to Danziger and/or its representatives regarding the quantity of harvested Products that the Customer trades. In addition, the Customer grants specific permission to the auctions to provide information to Danziger and/or its representative regarding the quantity of his Products that are being traded at the auction under any code (including ‘others’ or any other general codes mentioned).

Danziger is entitled to claim compensation for any and all damages related to breach of this Section.

11. Governing Law & Place of jurisdiction

These Terms shall be governed and construed in accordance with the laws of the State of Israel without regard to its conflict of law provisions. The court in Tel Aviv shall have exclusive jurisdiction over any dispute arising out of the use of the Terms set forth herein, and Customer agrees to adjudicate any dispute arising hereunder in those courts.

Notwithstanding the above, nothing herein contained shall prevent Danziger from seeking, and Danziger shall at all times have the right to seek, remedies through the courts of any other jurisdiction, at law or in equity, or otherwise as it deems necessary or desirable, including, without limitation, injunctive relief, in order to protect Danziger’s Proprietary Rights and/or in respect of any breach of the Terms.

Any failure to enforce any right or provision of these Terms will not be considered a waiver of those rights. If any provision of these Terms is held to be invalid or unenforceable by a court, the remaining provisions will continue to be in effect.

12. Termination

Danziger may terminate or suspend access to Service immediately, without prior notice or liability, for any reason whatsoever, including without limitation if Customer breaches the Terms. All provisions of the Terms which by their nature should survive termination shall still be in effect, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.