

## **We Respect Your Privacy**

Effective Date: December 30, 2019

We value your privacy and do not sell your email address to outside companies. By providing us with your contact information, you agree to receive informational emails about your order and specials from [www.jimmyappleseed.com](http://www.jimmyappleseed.com), as well as from our related companies. You may opt out of receiving future emails by clicking the "unsubscribe" button on the bottom of any email. Jimmy Appleseed ("we", "us", or "our") is committed to respecting your privacy. Jimmy Appleseed has developed this Privacy Statement (this "Statement") to describe how we may collect information about you as a website visitor or customer through your interactions with us on our website [www.jimmyappleseed.com](http://www.jimmyappleseed.com) (the "Site"), how we use the information that we collect, and how and under what circumstances we share that information. When you visit the Site or submit information to us through the Site, you consent to the collection and processing of your information as described in this Statement. **IF YOU DO NOT AGREE WITH THE USES OF INFORMATION DESCRIBED IN THIS STATEMENT, THEN PLEASE DO NOT USE THE SITE OR SUBMIT INFORMATION TO US.** This Site is operated by us from the United States and is designed for and intended for users from the United States. We may change this Statement. The "Effective Date" legend at the top of the page indicates when this Statement was last revised. Any changes will become effective when we post the revised Statement on the Site

### **Information We Collect**

Jimmy Appleseed collects information that personally identifies you when you voluntarily request information from Jimmy Appleseed or supply information through the Site, including any and all materials submitted by you when you create an account; place an order; enter your zip code to determine your growing zone; sign up to receive special offers, savings and care tips; fill out a submission form, questionnaire, or inquiry ("Personal Information"). "Personal Information" includes information your name, email address, mailing address, phone number, payment information (such as your credit or debit card number and expiration date, PayPal account information or gift card information), login credentials (your username and password created when you sign up for an account with us).

Please note that we may also obtain Personal Information from other sources and combine that with information we collect through our Site. For example, we may collect information about you from sources such as social media, our business partners, vendors, subcontractors, other advertising companies and publicly available sources. If you choose to login to the Site with your social media profile, you will receive prompts requesting access to specific user data. The information we receive from social media services depends on your privacy settings on the applicable social media service.

We also collect Usage Data (defined below) through the Site that does not, on its own, identify a specific individual. When we link Usage Data to your Personal Information, we will treat Usage Data in accordance with this Privacy Statement. When you use the Site we may, like most website operators, automatically collect certain non-identifying information about you, referred to as "Usage Data", such as the type of browser or operating system you use, your IP address, or the domain name of the website from which you linked to the Site, the activity of the your browser when the you are viewing the Site; your site path; and the time you come to the Site.

We, like many companies, use cookies and similar technologies such as web beacons to enhance your experience on our Site. These technologies are small text files that allow us to store information on your mobile device or computer hard drive so that we can recognize your browser and capture certain information, such as browsing history and activities conducted while using the Site. A cookie enables us to remember your growing zone or specific page you have visited so the next time you return to our Site you do not have to select that growing zone or page again. You can adjust how your Internet browser (like Chrome or Safari) responds to cookies (e.g., to warn you every time a cookie is sent, or to turn off all cookies). See your browser's Help menu for these instructions. Users who do not wish to have cookies placed on their computers should set their browsers to refuse cookies before accessing the website. By disabling your cookies, please understand you will not have access to some of the features that enhance your user experience on the Site.

We also use third party cookies and third party tracking tools on our Site to measure traffic to our Site and how users interact with our Site and for targeted advertising. We use Google Analytics. Google Analytics utilizes cookies to gather information regarding use of our Site, which Google uses to generate reports for us regarding our Site. To find out more about how Google uses data when you use our Site and your options for controlling the information collected by Google from this Site, please [click here](#). You may opt-out of having your activity on the Site made available to Google Analytics by installing the Google Analytics browser add-on.

Jimmy Appleseed may collect your email address via cookies and pixels on the Website through the use of trusted third party partners. These partners may combine your email information with other information they have access to such as mailing address so that Jimmy Appleseed may serve relevant marketing offers to you via direct mail. If you do not want Jimmy Appleseed to collect information about you, please contact Jimmy Appleseed to opt out.

#### Uses of Information - Purposes

We may use your Personal Information as follows:

- to provide and deliver products and fulfill your orders;
- to establish and manage business relations with you;
- to respond to inquiries, requests and comments from you;
- to operate, improve and personalize the products and services we offer, and to give each user a more consistent and personalized experience when interacting with us;
- to communicate special offers, promotions and information about our company and service offerings to you via email or to your mailing address, if you have provided one;
- to publish public product and customer reviews submitted by you;
- to send you newsletters and information about products, services and promotions of our business partners and affiliates;
- for customer service, security, to detect fraud or illegal activities;
- to prevent or investigate activity we think may be potentially illegal, unlawful or harmful;
- for archival and backup purposes in connection with the provision of the services;
- to better understand how you access and use the Site, for the purposes of trying to improve the Site, diagnose problems, administer our Site and respond to user preferences; and
- to enforce our other applicable policies.

In general, we gather Usage Data about all of our users collectively, and not on an individual basis, for purposes such as determining which parts of our website users access most frequently. This Usage Data helps us determine which parts of our website are most beneficial for users, and how we can continually create a better overall experience for you. If we link Usage Data with Personal Information in a way that renders the Usage Data personally identifiable, we will treat it as Personal Information in accordance with the terms of this Statement.

We may use the Usage Data that we collect

- to operate, improve, find errors in and personalize the Site;
- to recognize returning website visitors and improve user experience;
- to provide customer service, and to detect, prevent and mitigate fraudulent or illegal activities; and
- to learn things like what pages are most attractive to our visitors, which of our products most interest our customers, and what kinds of offers our customers like to see.

#### Disclosing Your Personal Information to Third Parties

Any Personal Information we gather may be used for our internal business purposes and disclosed to third parties, as stated below.

**Agents and Service Providers:** We engage vendors, subcontractors, agents, consultants, and other service providers ("Service Providers") to perform functions on our behalf. Examples include creating and maintaining our Site, sending postal mail and e-mail, collecting user product reviews, managing and updating customer lists, developing and delivering targeted advertising, providing analytics and site usage information, processing transactions and payments, administering our promotions, contests, sweepstakes, and surveys; providing other marketing and promotional assistance, and providing other services related to the operation of our business. These Service Providers may require the Personal Information to perform their functions on our behalf or to permit us to perform our functions. These Service Providers have agreed to keep your Personal Information confidential.

**Legal Compliance and Protection.** Notwithstanding any other statements or representations in this Statement or elsewhere on our Site, we reserve the right to disclose any information in our possession if we are required to do so by law or we believe, in good faith, that such a disclosure is necessary to comply with the law, court order or other government or law enforcement agency, defend our rights or property, or to respond to an emergency situation or protect the rights, property or safety of website users.

**Corporate Transactions.** Jimmy Appleseed reserves the right to share information with its corporate affiliates and subsidiaries and to transfer Personal Information to a purchaser or successor entity in the event of a sale or other corporate transaction involving some or all of our business.

**Your Consent:** We may share your Personal Information with your consent or at your direction.

## Security

We implement security measures to maintain the safety of your Personal Information. However, the security of information transmitted through the internet can never be guaranteed. We (like all websites) cannot warrant or guarantee 100% security of any information you transmit to us through the Site.

We may provide you with opportunities to share product reviews and customer reviews. Please remember that any information disclosed in these areas may be made public with your consent. You should exercise caution when disclosing Personal Information in these areas, as this information is made available to other users. Do not disclose information in these public forums that might be considered confidential or proprietary or that you do not wish to be publicly available or that you are prohibited from disclosing.

## Managing "Do Not Track" Signals

Some browsers have an optional Do Not Track ("DNT") feature that allows you to express your preference regarding tracking of your online activity by websites. When you choose to turn on the DNT setting in your browser, your browser sends a special signal to websites, ad networks, plug-in providers, and other web services you encounter while browsing to stop tracking your activity via cookies or other tracking technologies. Our Site does not currently respond to DNT browser signals or mechanisms.

## Third Party Links

The Site may contain links to websites maintained by third parties with which we have no affiliation. This Statement does not reflect the privacy practices of those sites, and you should consult the privacy policies of those sites to learn about their practices. A link to any third party site does not mean that we endorse it or the quality or accuracy of information presented on it. The social media features on our Site may allow social media providers to collect certain information. Your interactions with these features are governed by the privacy policies of the company providing the features.

## Additional Protections for Children

The Site is not designed for or targeted to children under the age of 13. Jimmy Appleseed will never knowingly solicit or collect Personal Information from a child under the age of 13 through the Site without verifiable parental consent or unless that child's parent or legal guardian has submitted the information in connection with the Site. If we discover that a child under the age of 13 has submitted Personal Information without verifiable consent, we will delete that information.

## You Choices About Our Collection and Use of Your Personal Information

**Changing Personal Data.** We strive to maintain the accuracy of Personal Information collected. If you have an online account with us, you may update your name by logging into your account. If you want to change any of your other Personal Information, we will work with you to correct any information you submitted to us upon your request. Please submit your request by contacting us on our home page at [www.jimmyappleseed.com](http://www.jimmyappleseed.com). It may not always be possible to completely remove or modify information in our databases, although we will make reasonable efforts to do so upon your request.

**Commercial Electronic Communications.** If you do not wish to receive communications from us, you may opt-out of receiving future communications by clicking the unsubscribe link featured at the end of our emails or by contacting us on our home page at [www.jimmyappleseed.com](http://www.jimmyappleseed.com).

## Contacting Us

If you have questions or comments about this Statement or would like to review, update correct or delete any Personal Information you have provided, please contact us at [www.jimmyappleseed.com](http://www.jimmyappleseed.com).

## Changes to This Statement

The Effective Date of this Statement is set forth at the top of this Statement. Jimmy Appleseed may from time to time make changes to this Statement to reflect changes in legal or regulatory obligations or changes in the manner in which we collect and use Personal Information. We will notify you by posting the modified Statement, and its effective date, on this page, and by emailing you if you have provided your email address to us. For this reason, you should regularly review this Statement and note the effective date.

## Terms of Sale

The following Terms and Conditions, as referenced in and incorporated by any sales Contract Documents of JIMMY APPLESEED apply to the contractual relationship between JIMMY APPLESEED as Seller and all Buyers of its products.

***NOTE FOR COMMERCIAL CUSTOMERS:*** *These terms and conditions are in addition to those contained in Commercial Contract Documents and are not intended to modify or contradict any of the Terms and Conditions contained in the Commercial Contract Documents. In the event that any of these Terms or Conditions modifies, or is*

*determined to be in conflict with any of the Terms and Conditions in the Contract Documents, the Terms and Conditions contained in the Contract Documents shall govern and the conflicting Term(s) or Condition(s) contained herein shall be invalid and of no force or effect without affecting the validity of the remaining Terms and Conditions herein or in the Contract Documents.*

#### **Disclaimer of Warranties**

***With the exception of the Limited Warranty*** set forth and in any Commercial Contract Documents, Jimmy Appleseed disclaims all warranties of any kind, express or implied, specifically including but not limited to the Warranty of Merchantability and the Warranty of Fitness for a Particular Purpose. Jimmy Appleseed cannot warrant either the productivity (either in terms of the yield, size, quality, and color) or the marketability of the potential plants due to factors beyond its control after the delivery of the plants into the hands of the customer. The factors which introduce variables that can affect productivity and marketability include but are not limited to (a) environmental conditions such as the growing year's weather conditions, local "microclimates," draught, cold, heat, wind, and maturity rate variables such as elevation and geographic location of the orchard; (b) horticultural conditions and farming practices such as soil type, soil nutrient levels, the pH of the soil, soil drainage, irrigation practices, planting density, pruning practices, the nature of the canopy and canopy development, trellis configuration, fertilization practices (such as nitrogen levels), the plant's vigor (and whether the plant is being "pushed", age of the plants, prior use of the land, the plant's uptake of nutrients (including nitrogen) and water, the type of rootstock, the thinning practices and the location of apples or other fruit on the tree, and the timing of the harvest; and (c) market conditions including but not limited to the timing of harvest, crop size, variety, demand and carry-over inventory.

#### **COMPLETION OF SALE DEFINITION**

You the customer, if present at time of delivery, may inspect and determine suitability of plant(s) or other goods at the time of delivery and planting, with an affirmative acceptance causing a transfer of product to you and effectively closing the sale, as follows. The actual date of purchase and ownership of property in the plant(s) and/or other goods supplied/delivered, including planting, and Jimmy Appleseed accepts your offer and passes to you upon delivery to your location or to an agreed delivery point, that you select by providing us with address, and a location determined by you for planting is described and located by you and pointed out to our technician who will photograph you directing such choice and/or map if you supplied it, and a hole is dug by Jimmy Appleseed technician or another, and the plant is placed into the hole. If no impediment is presented to technician, yet a map that doesn't make it clear where the planted tree is to be placed, that in any manner whatsoever, interferes with, prevents, questions rights or permission as a requirement, Jimmy Appleseed's technician will not complete digging and planting. An additional fee for re-delivery will be charged at prevailing rates if a re-visit to dig a hole and plant tree is rescheduled at a later date, and the sale will not be completed until that date of fulfilling the terms of sale with a hole dug and a plant placed is completed.

#### **DIGGING INCLUDES ONE (1) HOLE**

Jimmy Appleseed is not obligated, as quoted and at agreed upon and paid price, to dig more than one (1) planting hole, and additional holes may be completed with fill placed into previous hole ONLY at additional charge, at prevailing price for digging (only) at a cost, charged to customer, of one (\$1) dollar per minute which shall be billed, entered onto completed order and charged to customer's card at time of sale, with customers understanding and acceptance. If such a charge is refused by customer at time of service, technician may place plant and complete planting in existing hole and complete service, and customer agrees that the sale has been completed and fulfilled as ordered and paid.

#### **DELAY OF DELIVERY BY JIMMY APPLESEED**

Due to seasonal and weather conditions that can freeze plants and ground, that are beyond our control we may delay delivery and planting until we feel the plant will have the best potential to grow without limitations, and that includes holding ALL winter orders until April 1 , and requiring a verbal discussion with each customer who has placed an order

to confirm the sale and discuss the terms and details of the delivery, planting and on-going care of the plant(s) that is required.

#### DELAY OF DELIVERY BY CUSTOMER

For delivery and planting of any live product, Jimmy Appleseed is not obligated to provide more than ten (10) minutes of wait time for property access or delay for customer's choice of a location for planting, or any other reason for delay from promptness of digging, planting and completion in any event, as Jimmy Appleseed has scheduled additional service calls which will be delayed by such an event. Customer agrees that a fee of one (\$1) dollar per minute, for each minute of time beyond ten minutes of delay, shall be billed, entered onto completed order and charged to customer's card at time of sale, with customers understanding and acceptance.

#### PROPERTY RIGHTS ISSUES

If any impediment to property access is presented to technician and technician solely determines any risk of continuing such planting may be a risk to Jimmy Appleseed in any way, including but not limited to loss of sale, violation of (unknown) property rights, including movement of technician, and/or plant and equipment in any way is suggested to create such liability, technician will not dig and/or plant such tree where directed and will leave the purchased plant(s) only if a waiver of liability and acceptance of sale is signed by you and submitted to Jimmy Appleseed. At such time of such acceptance by you, Jimmy Appleseed has completed the terms of sale, and you, the purchaser waives all further obligation or responsibility of Jimmy Appleseed or it's assigns from thereon. If such risk of violation is presented at any time post-planting or after completion of sale, you the customer agrees that you assume all risks, costs, liabilities and responsibilities for all damages, in perpetuity, for such property rights or risks issues, and assumes the responsibility for any legal or other negotiation costs for such an event Jimmy Appleseed is exposed to.

#### Limited One (1) Year Warranty

Plants can perish for many different reasons, which is why we offer a one-year, one-time replacement warranty (delivery and planting included), after the date your purchase and initial planting are completed. We will require a picture to verify that your plant has died - but once we receive your photos, we will issue a credit to order your replacement plant(s). Plants can perish for many different reasons, so purchasing this warranty is a great way to ensure that we can assist you in getting your trees replaced.

Because anecdotal, unknown environmental conditions may occur on the property you select for planting, we can not assume the risk of offering a Limited Warranty on further trees.

##### What Does The Limited Warranty Cover?

The one 1-year Limited Warranty will cover 100% of the price you paid for your planted plant(s) in the form of a purchase credit and is NOT available on services or service plans such as the Orchard Management service plan. This allows you to replace it with the same variety or if you choose to try something different, the choice is up to you. The warranty will not cover any type of hard goods that were purchased with the tree or plant. This includes fertilizer, soil and potting kits.

##### How do I redeem my warranty?

*The process is easy! Simply follow the steps below.*

NOTE - Before making a limited warranty claim you will want to perform a scratch test on the tree or plant to determine if it has perished, (which we will also perform upon arrival to remove the plant, to establish that the plant requires replacement).

Scratch a small area of bark on the trunk. You can rub it with a coin or fingernail.

If you see green, then the plant is alive and should recover!

If the time is fall through spring, the plant is likely in full or partial dormancy.

If the time is during the growing season, then the leaves may have temporarily dropped as a self-pruning measure.

This acts as a reset switch for the plant and is normally just temporary.

If you see brown or black underneath, then the plant is unfortunately dead.

Please take a digital photo of the plant that has died.

Seeing photos can sometimes help our staff to diagnose the issue or issues that caused your plant to die, and allow them to make recommendations for a future successful planting.

Go to our contact us page at [www.jimmyappleseed.com](http://www.jimmyappleseed.com). From here, go the contact form on the bottom of page one and say in your note - "I would like to redeem my Limited Warranty". Please plan to email or text us a photo of your trees and or plants that have perished. Please provide a brief description as to what the issues are and hit submit!

Once we receive your request, we will review your photos and will move forward with getting your credit processed.

Please allow 3-5 business days to receive an email with your credit information. You will use that store credit just like a gift certificate when making a new order.

### Shipping/Delivery

We take pride in the accuracy of our shipping, delivery and/or planting dates. Of course, external factors could delay these dates. Because these are estimates and weather and availability issues are not always predictable, exact delivery/planting dates cannot be guaranteed, and handling live products has its challenges. On these rare occasions, we delay. However, we will keep you informed...the health of your plants and your convenience is our highest concern.

### Spring Shipping

Some plants and trees are cold sensitive, so it is best to deliver and plant them during months with milder temperatures. Most trees and plants can be planted year-round safely, but some gardeners prefer planting in warmer weather. If you would like to delay your delivery date, please call us at 1-216-409-6004. We're happy to work with your preferred schedule!

**Remember:** We don't plant a poor-quality or damaged plant, and our technicians are authorized to make such decisions, even if you insist it may bounce back! However, call us if you're not convinced as we're here to help you (and your trees and plants!) succeed, but quality and damage claims must be made in a timely manner...otherwise, we are unable to help. Please use our Contact Us form to send your concerns.

### Returns and Cancellations

Since plants and trees are perishable, nursery stock cannot be returned without authorization. In some cases, garden supplies and hard goods may be authorized for return, including fertilizers, planting mixes, planting kits and watering bags.

**Note:** Once trees and plants are approved for return, a 25% restocking fee will be charged. These trees must be returned in live condition within two weeks of receipt, and shipping charges are non-refundable.

Keep in mind that buyers are responsible for shipping and processing charges. Our liability will not be greater than the cost paid for the customer's order in any circumstance.

### Is My Tree Dead or Alive?

To determine if your tree or plant is still growing strong, perform a scratch test. Simply scratch a small area of bark on the trunk with a coin or your fingernail. Unfortunately, if you see brown or black underneath the top layer, it's most likely dead. But if you see green, your tree is alive and will leaf out again...especially if you're checking on your tree during fall, winter or early spring. Most trees and plants are in full or partial dormancy during this time.

If you're noticing stalled or stopped growth in the growing season, your tree's leaves may have dropped as a temporary self-pruning measure. Trees and plants may drop their own leaves after transit, transplant, or just as a reset. Your tree should bounce back soon!

Disclaimer: We Can't Predict Mother Nature

Keep in mind that Mother Nature is out of our control! Though we wish we could guarantee the success of every tree and plant, we cannot. Hungry critters, trees planted outside recommended growing zones, neglect, extreme weather damage, drought, disease and poor soil conditions can take their toll.

Unfortunately, plants are living organisms and are subject to unpredictable conditions each day. However, we do our best to ensure that you are getting a quality product. Plants are our business, and we strive to build customer relationships based on trust and reliability.

Though we're unable to provide every detail for every product (we can potentially stock hundreds of trees and plants, after all!), we do our best to give you the essentials, care tips, special details, and best practices.

That said, it's important to do your homework as well! Plant information and recommendations can be finicky in the horticultural world. Growing zone maps and certain product specs may not be tailored to specific microclimates (like swampy areas in an otherwise dry, arid zone), unusual landscape conditions, and your local weather.

Best practices like wind and weather protection, mulching, and regular pruning also affect your trees and plants.

If you have any questions about plant hardiness or the best trees and plants for your area, contact your local County Agricultural Extension Office.

**Note:** Pictures and videos on our product pages may not show the exact cultivar represented. Unless otherwise noted, our pictures represent trees and plants at maturity to give you an idea of your future landscape or garden. Typically, your tree or plant will not look as pictured upon arrival. Younger trees are naturally thinner in shape and less branched than mature trees but will grow fuller with time.

#### Dormant Trees & Plants

Most leaf-bearing trees and plants enter dormancy or semi-dormancy in the fall through early spring. These plants are completely healthy but may exhibit fewer leaves, discoloration or complete leaf drop.

This is normal and essential to the plant's health. And it makes the transplanting process easier for your plant!

In fact, planting during dormancy promotes root growth, giving your tree a better start for spring, when new foliage will begin to grow. For this reason, we intentionally keep our trees dormant longer in the spring. It's possible that your planted trees and plants may still be dormant while your local trees are leafing out. Just give your plants a few weeks, and you will soon see new spring foliage!

**Note:** We will not accept a plant loss claim for dormant items until they've been planted in the ground and given adequate time to exit dormancy. We prune our trees and plants before delivery and planting, free of charge. This may temporarily reduce your tree's size but promotes growth for a larger, fuller effect in the spring.

#### Received the Wrong Tree?

We take great care to label all plant varieties properly and correctly. If your purchase is mislabeled, we will replace your shipment at our expense. Simply contact customer service and send pictures of your mislabeled products. More information on our liability limit is included in our Terms of Service.

#### Growth Rates

We list the growth rates of our products based on ideal growing conditions and published information. But remember: Trees are like humans and all grow differently!

We cannot predict how quickly your trees will grow, fruit or flower. All plants are unique and must be nurtured properly in a suitable environment. Because every plant is unique, every home is unique, and every landscape is unique, your results will vary.

#### Pot Sizes

Our trees and plants with listed container sizes reference the industry-standard trade gallon. These sizes are smaller than conventional gallon measurements, and some plants may be repotted, pruned, or tidied-up before we deliver and plant them.

#### Deciduous Trees & Pruned Trees

Deciduous trees may have minimal branching, or no branching, while they're still young. Furthermore, we prune branches from young trees to promote faster growth and better branching later.

Your young tree may be smaller or skinnier upon arrival, but be patient: It will grow taller and branch out fully in one or two seasons!

We guarantee all planted plants and trees to be in a healthy condition and to be true to the described plant variety, as well as the size/description as agreed to in the sales agreement. If applicable, all heights are measured from the soil line to the highest extended branch or foliage.

#### Discounts & Coupons

Only one coupon code can be used per order. You cannot combine coupons to receive multiple discounts. This is a one-time use coupon. There will be no "credit" given to the unused portion of your coupon. This credit cannot be used with any other offers, discounts or coupons. All coupons must be applied at the time of purchase.

#### Web Accessibility

Jimmy Appleseed Trees is firmly committed to compliance with the Americans with Disabilities Act. To honor this commitment, we continually improve our website accessibility. If you have any questions about the accessibility of our website, or if you have suggestions to improve usability or accessibility, please let us know.

#### Governing Law; Dispute Resolution

You agree that all matters relating to your access to or use of the Site, including disputes, will be governed by the laws of the United States and the State of Ohio without regard to its conflicts of law's provisions. You agree to the personal jurisdiction by and venue in the state and federal courts in Cuyahoga County, Ohio and waive any objection to such jurisdiction or venue. Jimmy Appleseed Trees (and its affiliates, officers, directors and employees) shall not, in any event, be liable for damages in an amount greater than the original purchase price of the product(s). Should Jimmy Appleseed Trees prevail, it will be entitled to recoup all costs and attorney fees.