

Article 1 - Definitions

- The definition in these general terms and conditions of "KWS Vegetables Netherlands" shall be KWS Vegetables Netherlands B.V., with its registered office in (t) 19 BN Andijk, at Middenweg no. 52, registered with the Chamber of Commerce for Noordwest-Holland under number 36012104.
- The definition of "Buyer" shall be the natural person or legal entity entering into an agreement with KWS Vegetables Netherlands.
- The definition of these "General Terms and Conditions of Sale and Delivery" shall be General Terms and Conditions.
- The definition of "Intellectual Property Rights" shall be all existing and future trade secrets, copyrights, trademarks, trademarks, design rights, variety name, patents, plant patents, plant breeder's rights and/or other or related (intellectual property) rights, globally.
- The definition of "Order Confirmation" shall be the written acceptance by KWS Vegetables Netherlands of an Order, by means of a letter, email or electronically otherwise (internet, app).
- The definition of "Quote" shall be the particular terms applicable to a specific sale of Products proposed by KWS Vegetables Netherlands to Buyer.
- The definition of "Order" shall be an offer for the purchase of Products communicated by Buyer to KWS Vegetables Netherlands.
- The definition of "Parties" shall be KWS Vegetables Netherlands and Buyer collectively.
- The definition of "Plant Material" shall be all crops and (plant) material grown out of, produced or cultivated or derived from the Products, destined for human (or animal) consumption.
- The definition of "Products" shall be all seeds and planting material delivered by KWS Vegetables Netherlands to Buyer.

Article 2 – Applicability of these General Terms and Conditions

- These General Terms and Conditions shall apply to and shall form an integral part of all agreements regarding Products between KWS Vegetables Netherlands and Buyer.
- Any provision of these General Terms and Conditions found to be void or voidable, and subsequently declared void, shall be replaced by a provision of a nature and purpose most approximating and with economic implications for Parties comparable to those of the void or voided provision. Invalidity or voiding of one of the provisions shall not affect the remaining provisions agreed between Parties.
- KWS Vegetables Netherlands reserves the right to change these General Terms and Conditions from time to time. The new version of General Terms and Conditions will then apply as of the first Order from the Buyer and any and all new Orders thereafter.
- These General Terms and Conditions apply notwithstanding any terms and conditions contained in or referenced in any Order or in any other communication from Buyer, whether in written, electronic, or any other form. Any acceptance of an Order or other communication from Buyer by KWS Vegetables Netherlands is expressly conditioned on Buyer's assent to these General Terms and Conditions, including, without limitation, any terms and conditions herein that are different from or not contained in such Order or other communication from Buyer. Any terms and conditions in an Order or in any other communication from Buyer that are different from or in addition to these General Terms and Conditions or any terms in an Order Confirmation are expressly rejected by KWS Vegetables Netherlands.
- Buyer herewith grants in advance permission for transfer by KWS Vegetables Netherlands to another third party of any of its rights and receivables against or owed by Buyer.

Article 3 – Quotes, Orders, and Order Confirmations

- All Quotes made by KWS Vegetables Netherlands shall be non-binding and without obligation and shall lapse in each event upon expiration of 5 (five) business days.
- All Orders received by KWS Vegetables Netherlands are subject to acceptance by KWS Vegetables Netherlands in an Order Confirmation. Varieties and quantities confirmed in Order Confirmations are contractual obligations of Buyer. Adjustment thereof shall require KWS Vegetables Netherlands' written agreement unless waived.
- Without limiting the standard harvest- and processing reservation (article 5.3), KWS Vegetables Netherlands shall be entitled to withdraw a Quote and/or cancel any Order Confirmation, in writing within 5 (five) business days without explanation. In such event, no agreement has been concluded between the Parties.
- In case Buyer cancels the Order after receiving the Order Confirmation, the Buyer is liable to pay a minimum of 10% (ten percent) of the price that KWS Vegetables Netherlands would have charged upon delivery, without limiting KWS Vegetables Netherlands' rights to demand compensation of its damage and costs in full. Buyer may not cancel after shipment.
- Buyer shall be obligated to communicate to KWS Vegetables Netherlands within a reasonable period, but in any event within 30 (thirty) days prior to the contemplated date of delivery at the latest, all information relevant for (international) shipping of the Products. Buyer shall communicate to KWS Vegetables Netherlands information concerning the formalities required to enable import into the country specified by Buyer. Buyer shall communicate to KWS Vegetables Netherlands information concerning any (change in) requisite (international) certificates, phytosanitary issues, import documents, (pro forma) invoicing and labelling. If Buyer fails to perform any of these obligations then Buyer shall be in default, without a defaulting notice being required. Buyer shall be liable for loss incurred by KWS Vegetables Netherlands as a result of inaccurate or overdue information required by this paragraph.
- KWS Vegetables Netherlands is not liable for delays or non-handling of an Order resulting from or in connection with Buyer's failure to comply with any of its obligations under this article. Buyer shall be liable for any loss or damage incurred by KWS Vegetables Netherlands resulting from or in connection with such failure.

Article 4 – Prices

- All prices that are communicated by KWS Vegetables Netherlands to Buyer shall be:
 - exclusive of any costs of non-standard treatment, (non-standard) packaging, (quality) certificate costs, transport, shipping and insurance, pre-shipment inspection; and
 - exclusive of any and all taxes, levies, tariffs and fees imposed by any federal, state, local, or foreign authorities (including, but not limited to, sales, use, excise, and value-added taxes, custom duties, and similar tariffs and fees) ("Taxes").
- a) and b) of article 4.1 apply unless specified otherwise.
- Buyer agrees to indemnify KWS Vegetables Netherlands in connection with any claim for such Taxes.
- KWS Vegetables Netherlands shall be entitled to pass on to Buyer increases in cost price of one or multiple elements of the quoted sale price.
- All stated prices are subject to change by KWS Vegetables Netherlands. KWS Vegetables Netherlands reserves the right to change its prices unilaterally and periodically. Any new prices will be communicated to Buyer by KWS Vegetables Netherlands and immediately apply in lieu of earlier listed and/or offered prices.

Article 5 – Delivery

- KWS Vegetables Netherlands shall deliver to Buyer according to the Order Confirmation.
- KWS Vegetables Netherlands shall use its reasonable endeavours to perform according to the Confirmation Order. Nevertheless, delivery with a minor difference in size, packaging, quantity or weight still constitutes full performance of KWS Vegetables Netherlands' obligations.
- All Order Confirmations are subject to standard harvest and processing reservations (including but not limited to non-availability, seed production failure, seed quality issues and/or the like). In the event of aforementioned reservations KWS Vegetables Netherlands is not obliged to deliver but will endeavour to deliver pro-rata quantities and/or comparable alternatives, and Buyer shall not be entitled to any compensation of damages or costs.

- The delivery periods agreed by Parties shall be estimates only and not constitute firm delivery dates. KWS Vegetables Netherlands shall not be liable for loss resulting from agreed delivery periods being exceeded. Delivery periods being exceeded shall not in any circumstance entitle Buyer to cancel the agreement.
- Delivery by KWS Vegetables Netherlands shall be Free Carrier (FCA Andijk), according to the Incoterms 2020 of the International Chamber of Commerce in Paris (ICC), or any other Incoterms qualification agreed between KWS Vegetables Netherlands and Buyer in the Order Confirmation. Under FCA Andijk, the risk in respect of the Products shall pass to Buyer from the moment delivery has been made to the carrier and, if Buyer fails to provide its cooperation, from the moment of this failure.
- Upon delivery Buyer shall be obligated to immediately check the Products delivered, whether or not by engaging the services of the carrier or another person who will be provided by Buyer with the pertinent instructions.
- Buyer shall inspect the Products immediately upon receipt:
 - whether there is any damage of the packaging;
 - whether the correct Products have been delivered;
 - whether the quantity of the Products corresponds to the Order Confirmation; and
 - whether the items delivered satisfy all quality requirements expressly agreed to in writing by both Parties.
- Products shall be only exported in compliance with export control and international sanctions regulations. The Buyer commits itself (i) not to make available Products to any person listed under asset freeze measures implemented by the European Union, the United Kingdom or similar regulations, including the United States Specially Designated Nationals; (ii) not to transfer to a third party the Product nor reexport the Product in a way that would infringe export control and international sanctions regulations; (iii) not to transfer or reexport the Product in a way that would allow the Product to be used in any prohibited activity, including nuclear, military or chemical activity; and (iv) to ensure that the Product will only be used for civil end-use.

Article 6 – Payment

- Buyer shall provide payment in the agreed currency mentioned on the invoice, within the due date on the invoice, through wire transfer into a Dutch bank account of KWS Vegetables Netherlands, designated by KWS Vegetables Netherlands. Buyer shall always thoroughly review any invoice before payment thereof. In case of any change in bank account information or any other suspicion of hacking or fraud, Buyer shall immediately contact, by telephone, the corresponding sales manager of KWS Vegetables Netherlands to verify the correct payment details. Buyer has no right to suspend payment or make deductions or set-offs. In case of any hacking or fraud, such payment will not release Buyer from payment to KWS Vegetables Netherlands.
- For avoidance of doubt, the Parties agree that payment shall never be done (i) in cash or in endorsed checks; (ii) through third parties, unless pre-approved by KWS Vegetables Netherlands in writing; and/or (iii) from a different bank account other than the bank account of the Buyer, unless the Buyer provides KWS Vegetables Netherlands in advance with a bank certificate confirming the new bank account ownership by the Buyer and its location in Buyer's country of incorporation/registration.
- Any payment that will be made to KWS Vegetables Netherlands is sourced from legitimate and legal business activities, and is in any case not originated from any illegal activities.
- If on the first day upon the due date of the invoice no full payment has been received by KWS Vegetables Netherlands, Buyer shall be in default, without any notice being required.
- If payment in instalments has been agreed then, if any instalment is not duly paid, Buyer shall, without any notice being required, be in default and the remaining instalments shall immediately be due and payable.
- Once Buyer is in default, KWS Vegetables Netherlands shall be entitled to take, without any further notice, extrajudicial collection measures. Buyer shall be obligated to pay all associated costs. The extra-judicial collection costs shall be at least 15% (fifteen percent) of the collectible amount, at a minimum of € 250 (two hundred and fifty euros) ex VAT. Buyer shall owe compensation for extra-judicial collection costs as from the day that Buyer is in default.
- Once Buyer is in default, Buyer shall be obligated to pay KWS Vegetables Netherlands a contractual interest of the lesser of 1% (one percent) per calendar month or the maximum rate permitted by applicable law. The contractual interest due shall be calculated over the total invoice amount including VAT, increased by the extra-judicial collection costs. The contractual interest shall be calculated from the date that Buyer is in default until the day of full settlement, whereby a portion of a commenced calendar month shall count as a full month. Upon each calendar year end, the amount over which the contractual interest is calculated shall be increased by the contractual interest due over that calendar year.
- All payments made by Buyer shall serve, regardless of any notices sent by the latter, firstly to reduce the extra-judicial collection costs due at that moment, then to reduce the contractual interest due at that moment, and then to reduce the oldest invoice amount due at that moment. Once Buyer is liquidated or has been granted a moratorium or a decision has been made that it will be liquidated, all receivables of KWS Vegetables Netherlands shall be immediately due and payable.

Article 7 - Use of Products / Limited License

- Buyer may use the Products for the sole purpose of a single commercial production or cultivation and sale of Plant Material as produce only.
- Buyer may sell or transfer the Products to other parties for the sole purpose of producing a crop for sale or Plant Material as produce, only if such sale or transfer is explicitly subject to the terms and limitations of these General Terms and Conditions and a separate distribution agreement is agreed between Parties.
- Buyer may not use or cause or permit the use of the Products, Plant Material or any material thereof such as but not limited hereto: parental lines, derived varieties (e.g. mutants), resultant plant, plant tissue and/or genetics for any research, breeding, molecular or genetic analysis, reverse engineering, seed (re)production, propagation, multiplication and/or for any other purpose other than commercial production or cultivation of Plant Material as described in these General Terms and Conditions.

Article 8 – Default, Suspension, Dissolution and Termination of the agreement

- If Buyer fails to fulfill one or more of its contractual obligations under the agreement, including but not limited to these General Terms and Conditions, or to do so correctly and/ or in time, Buyer shall be automatically and without formal notice in default, and:
 - KWS Vegetables Netherlands' obligations will automatically and may immediately be suspended; and/ or
 - KWS Vegetables Netherlands may demand full payment and/or sufficient security from the Buyer, for instance, in the form of a bank guarantee to be issued by a reputable banking institution in the Netherlands, with regard to the performance by Buyer; and/ or
 - a) and/ or b) apply without prejudice to any of KWS Vegetables Netherlands' rights under the agreement, including but not limited to the right to claim from the Buyer compensation of all its damage and costs resulting from such default.
- KWS Vegetables Netherlands reserves the right to suspend performance under any agreement with Buyer, including but not limited to withholding all deliveries, until such time as all and any outstanding payments (including payments of any interest and/or extra-judicial collections costs) owed by Buyer to KWS Vegetables Netherlands under any agreement have been made.
- Once Buyer is in default, declared bankrupt, in liquidation or has been granted a moratorium, a decision to liquidate has been made, placed under guardianship, and/ or the like, KWS Vegetables Netherlands shall have the right to suspend performance of all its obligations towards Buyer and to cancel the agreement at its discretion through an extra-judicial declaration, without this resulting in KWS Vegetables Netherlands owing any damages, whereby all obligations of Buyer towards KWS Vegetables Netherlands shall be immediately due and payable.
- If KWS Vegetables Netherlands has a claim against a company related to Buyer – e.g. a parent, subsidiary, or sister company – and that company is in a state of bankruptcy or liquidation or has been granted suspension of payment, KWS Vegetables Netherlands may set off that claim against any claim the Buyer may have against KWS Vegetables Netherlands, even if KWS Vegetables Netherlands' claim may not have become payable at that time.

- KWS Vegetables Netherlands may terminate any agreement between the parties with immediate effect, by means of a written notice and in this case will be released from the duty to perform its obligations towards the Buyer, if the Buyer commits a breach of any of its obligation stated in article 5.8, 6.2, 6.3 and/or 15 and, if such breach is capable of remedy, the Buyer fails to remedy the breach within 30 (thirty) calendar days of the written notice from KWS Vegetables Netherlands identifying the breach. KWS Vegetables Netherlands may also terminate the agreement with immediate effect, by means of a written notice in case that any public authority has initiated an investigation or (criminal) proceedings against the Buyer or a third party related to it in case of a(n) (alleged) breach of any laws applicable to the Buyer, including but not limited to anti-money laundering regulations, anti-bribe regulations, anti-trading regulations, and other regulations, and any international sanctions and boycott regulations. In case of termination on the basis of this article 8.5, the Buyer will indemnify defend and hold harmless KWS Vegetables Netherlands against all damages, claims and losses caused directly or indirectly as a result of or in connection with the termination or the breach of the agreement or applicable laws.

Article 9 – Complaints

- Buyer shall be obligated to check the delivered Products and the packaging materials immediately upon delivery in accordance with article 5.7. If Buyer is of the opinion that KWS Vegetables Netherlands has failed in the performance of its obligation to deliver Products that meet the agreed specifications and quality, Buyer shall present in writing stating reasons the pertinent complaint to KWS Vegetables Netherlands within 2 (two) days upon delivery. If Buyer is of the opinion that the situation involves defects not visible at the time of delivery, it shall present in writing the pertinent complaint to KWS Vegetables Netherlands no later than within 2 (two) days upon discovery of the alleged defect, but in any event within 6 (six) months upon delivery.
- The written notice shall provide the Order- and batch-number, the basis for any complaint as well as supporting evidence (photo's, expert statements etc.) in such a manner that KWS Vegetables Netherlands or a third party expert can verify the complaint. Subsequently within 14 (fourteen) days upon having ascertained the alleged defect, Buyer shall present to KWS Vegetables Netherlands documentary evidence proving (the nature and scope of) the defect.
- Buyer is required to limit as much as possible the damages in respect of which the Buyer submits a complaint to KWS Vegetables Netherlands.
- Upon expiration of the periods specified in the preceding sub-clause 1, all rights and defences of Buyer relating to the cause(s) of the complaint shall lapse and it shall be established fact between Parties that KWS Vegetables Netherlands has adequately performed its obligation to deliver Products that meet the agreed specifications and quality. As from that moment, furnishing counterproof by Buyer shall be precluded.
- Notwithstanding the preceding sub-clauses of this article, it shall be established fact between Parties, without any option of furnishing counterproof, that KWS Vegetables Netherlands shall have adequately performed its obligation to deliver Products that meet the agreed specifications and quality, if Buyer has used, processed or manipulated the Products or has resold the same to a third party.
- Under no circumstances shall Buyer have any right to return the Products delivered by KWS Vegetables Netherlands, except with the written permission of KWS Vegetables Netherlands while observing further conditions possibly imposed by KWS Vegetables Netherlands.
- Although Buyer has filed a claim in time, this will not suspend Buyer's obligation to pay any outstanding amount.
- If any complaint is acknowledged by KWS Vegetables Netherlands then it shall be competent at its discretion to either replace the relevant Products and compensate for the cost of freight, or credit Buyer for the relevant portion of the delivery. The foregoing shall be Buyer's sole and exclusive remedy, and KWS Vegetables Netherlands' sole and exclusive obligation and liability, in the event of any complaint by Buyer under this article 9 or any alleged default, shortage, or defect of Products.
- The dimensions and weights as specified in the Order Confirmation prepared by KWS Vegetables Netherlands shall be deemed to be accurate unless Buyer proves a variance in excess of 3% (three percent) in which event the amount payable shall be adjusted accordingly.
- If there exists a difference of opinion between the Parties as to whether the delivered Product is defective in terms of germination, genuineness and/or purity of a variety, technical purposes, and health, then KWS Vegetables Netherlands shall appoint an expert to conduct an investigation. Both Parties shall afford the expert(s) their cooperation to enable him/ them to conduct this investigation. The Parties shall acquiesce to the opinion of the expert(s). The unsuccessful Party shall bear the costs for the investigation.

Article 10 – Reservation of Title

- Title to the Products delivered by KWS Vegetables Netherlands shall transfer to Buyer only after the latter shall have performed all its obligations towards KWS Vegetables Netherlands including payment of contractual interest and extra-judicial collection costs due, if any. Risk of loss or damage shall nonetheless transfer to Buyer upon delivery as set forth in article 5.5.
- Buyer shall be permitted to resell or process the Products delivered by KWS Vegetables Netherlands only in the context of its normal business operations, subject to the restrictions in article 7. If the Products are resold, the Buyer is obliged to demand a retention of title from its buyers.
- Buyer shall not be permitted to pledge the Products or to create any other (security) right with regard to the Products other than with the prior written permission of KWS Vegetables Netherlands.
- If the legislation of the country of destination of the Products delivered by KWS Vegetables Netherlands affords further reaching options to stipulate reservation of title than those provided in the preceding sub-clause, the Parties herewith agree that these further reaching options shall be stipulated in favour of KWS Vegetables Netherlands, provided that where it cannot be objectively established to which further reaching rules this stipulation relates, the provisions in the preceding sub-clause shall remain applicable.
- On demand of KWS Vegetables Netherlands, Buyer shall vest a (non-possessory) right of lien in all goods into which the Products delivered by KWS Vegetables Netherlands have been processed, or of which these form a part.

Article 11 – Intellectual Property

- KWS Vegetables Netherlands reserves all Intellectual Property Rights in and to, and Buyer agrees and acknowledges that KWS Vegetables Netherlands has the exclusive right, title to and interest in all Intellectual Property Rights or related to, the Products and Plant Material and any mutations, (derived) varieties or any (biological) material obtained therefrom or included therein, including but not limited to parental lines, traits, genetics, technology and/or all its other (geno- and/or phenotypical) characteristics and designations. In the event any new Intellectual Property Rights are created, Buyer hereby assigns and transfers and agrees to assign and transfer such Intellectual Property Rights – without undue delay – to KWS Vegetables Netherlands, which accepts such transfer. Buyer hereby authorizes KWS Vegetables Netherlands to register and otherwise effect or complete such transfer under the applicable law and Buyer shall assist KWS Vegetables Netherlands in carrying out all actions necessary to register, effect, evidence, and complete such transfer.
- Buyer shall not register any trademark, trade name, company name, domain name, symbol or variety designation which is identical or confusingly similar to the trademarks, trade names, company names, domain names, symbols or variety designations owned by KWS Vegetables Netherlands or any of its affiliates.
- Buyer shall not be permitted to use trade names and trademarks owned or used by KWS Vegetables Netherlands, except in its regular process of selling Products packed and delivered by KWS Vegetables Netherlands, and then only in accordance with KWS Vegetables Netherlands' directions and trademark usage guidelines.
- Buyer shall not use the Products, Plant Material or any mutations, (derived) varieties or any (biological) material obtained therefrom or included therein, including but not limited to parental lines, traits, genetics, technology and/or all its other (geno- and/or phenotypical) characteristics and designations for the propagation or reproduction of source material. Nor shall Buyer apply treatments for the purpose of propagation or reproduction of source material.
- In the event Buyer finds, observes or discovers a derived variety, including but not limited to any mutation in the production and cultivation of the Plant Material:
 - Buyer shall immediately notify KWS Vegetables Netherlands and make sure KWS Vegetables Netherlands is informed thereof;

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- b. Buyer will provide KWS Vegetables Netherlands with test material at KWS Vegetables Netherlands' first request;
- c. Buyer shall not – without the prior written permission of KWS Vegetables Netherlands – exploit the mutant or harvested material thereof, nor in this respect: (i) register for sale (ii) (re)produce or propagate, condition, offer for sale, sell or otherwise introduce into the market; (iii) export, import and/or (iv) store for one of the previous mentioned purposes.
6. Buyer shall afford KWS Vegetables Netherlands, or persons authorised by the latter, on demand immediate access to its enterprise(s) and (commercial) grounds and premises for the purpose of enabling verification of compliance with the provisions in this article. If the Products are being held for Buyer by third parties, or title to them has been transferred to third parties, then Buyer shall ensure that said third party is bound by KWS Vegetables Netherlands' rights defined in the preceding sentence.
7. If Buyer violates any provision in this article, to the extent permitted by applicable law, it shall owe an immediately due and payable penalty to KWS Vegetables Netherlands in the amount of € 5,000 (five thousand euros) for each violation for each subsequent day that the violation continues, notwithstanding KWS Vegetables Netherlands' right to recover additional damages.

Article 12 – Product Information

1. Illustrations, catalogues, drawings and notices made available by or on behalf of KWS Vegetables Netherlands regarding quality, composition, weight, dimensions, treatment in the broadest sense, cultivation-related information, and applications and properties of the Products shall be merely illustrative without the Products being required to be a match.

2. Cultivation-related recommendations preceding and during the cultivation of crops shall be made by or on behalf of KWS Vegetables Netherlands without obligation and in a general sense, without any guarantee, representation or warranty regarding purpose of performance, and shall not affect the personal responsibility of Buyer to (cause to) evaluate such recommendations as to specific fitness for Buyer and other factors (potentially) affecting the cultivation of the crop.

3. As used in the information supplied by KWS Vegetables Netherlands, the following terminology shall mean:

- a. Susceptibility means 'the inability of a plant variety to restrict the growth and development of a specified pest'.

- b. Resistance means 'the ability of a plant variety to restrict the growth and development of a specified pest under normal pest pressure when compared to susceptible varieties under similar environmental conditions and pest pressure. Resistant varieties may exhibit some disease symptoms or damage under heavy pest pressure'.

- c. Two levels of resistance are defined:

High resistance (HR): plant varieties that highly restrict the growth and development of the specified pest under normal pest pressure when compared to susceptible varieties. These plant varieties may, however, exhibit some symptoms or damage under heavy pest pressure.

Intermediate resistance (IR): plant varieties that restrict the growth and development of the specified pest but may exhibit a greater range of symptoms or damage compared to high resistant varieties. Intermediately resistant plant varieties will still show less severe symptoms or damage than susceptible plant varieties when grown under similar environmental conditions and/or pest pressure.

It is to be noted that if a resistance is claimed in a plant variety it is limited to the specified biotypes, pathotypes, races or strains of the pest.

If no biotypes, pathotypes, races or strains are specified in the resistance claim for the variety, it is because no generally accepted classification of the cited pest by biotype, pathotype, race or strain exists. New biotypes, pathotypes, races or strains that may emerge are not covered by the original resistance claim.

- d. Immunity means 'when a plant is not subject to attack or infection by a specified pest'. Also regarding this terminology KWS Vegetables Netherlands communicates without any guarantee, representation or warranty regarding purpose of performance and shall not be held liable for any information provided in relation hereto.

4. Any and all warranties shall lapse and KWS Vegetables Netherlands shall not be liable for any Product that has been repacked, treated, conditioned and/or manipulated in any way by Buyer or by KWS Vegetables Netherlands or a third party at Buyer's request.

5. Except for any limited warranties expressly stated herein, KWS Vegetables Netherlands hereby expressly disclaims any and all other warranties, whether express, implied, or statutory, including, without limitation, any implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement, and any and all warranties that may arise from course of dealing, course of performance, or usage of trade.

Article 13 – Indemnification and Liability

1. Buyer shall indemnify KWS Vegetables Netherlands against any and all claims of third parties for compensation of damage (all defects in the Products delivered either by Buyer directly or through Buyer as intermediary), or for infringements of (intellectual) property rights. Buyer shall for this purpose, on KWS Vegetables Netherlands' demand, take legal action or institute arbitration proceedings. Buyer shall be liable for all legal representation costs being incurred by KWS Vegetables Netherlands.

2. The terms and provisions of this agreement are intended solely for the benefit of each party hereto and their respective successors and permitted assigns, and the Parties do not intend to confer third-party beneficiary rights upon any other person. Buyer will indemnify and hold harmless KWS Vegetables Netherlands to the extent that third parties assert that they derive rights from or allege a receivable on KWS Vegetables Netherlands resulting from the agreement entered into between the Parties.

3. To the extent permitted by applicable law, in no event shall KWS Vegetables Netherlands be liable for any direct, indirect, special, incidental, or consequential damages of any kind, or any loss of profits, or loss or interruption of business, in connection with the Products or this agreement, or the Parties' activities relating hereto, even if KWS Vegetables Netherlands has been advised of the possibility of such damages. This exclusion of liability can also be invoked by the (former) personnel, directors and supervisory directors of KWS Vegetables Netherlands, by third parties engaged by it/ them, including heirs and legal successors.

4. If, the preceding sub-clause notwithstanding, a liability is established at law then KWS Vegetables Netherlands' liability shall be limited to the payout made in the concrete case by its insurance company under its (business) liability insurance policy.

5. If, the preceding sub-clause notwithstanding, a liability is established at law, and in the concrete case no payout results under a (business) liability insurance policy then KWS Vegetables Netherlands' liability shall be limited to the invoice amount, less any granted discounts and reductions and transport costs and VAT involved in (the pertinent portion of) the delivery.

6. Buyer hereby explicitly understands and agrees to this limitation of liability of KWS Vegetables Netherlands.

Article 14 – Force Majeure

1. If KWS Vegetables Netherlands is faced with a circumstance due to which it cannot perform and which cannot be attributed to KWS Vegetables Netherlands if and insofar as this circumstance makes performance impossible or unreasonably complicated (force majeure) then it shall be competent to suspend performance of all obligations towards Buyer and at its discretion dissolve the agreement through an extra-judicial declaration, without consequently coming to owe any damages to Buyer.

2. In addition to paragraph 1 and as variance with article 6:75 BW (BW = Burgerlijk Wetboek = Dutch Civil Code), the definition of a force majeure situation shall be: any circumstance not attributable to and reasonably not to be foreseen by KWS Vegetables Netherlands as well as any foreseeable circumstance not dependent on the will of KWS Vegetables Netherlands that temporarily or permanently prevents performance of the agreement. Force majeure situations shall in any event include: war, threat of war, civil war, riot, severe storm, hurricane, flood, water damage, other severe weather conditions, epidemics, fire, transport difficulties, unforeseen technical complications, business interruptions, work strikes at KWS Vegetables Netherlands or at third parties whose services it has engaged, blockades, import and export bans whether or not ordered by phytosanitary authorities, full or partial seizure or confiscation of stock at KWS Vegetables Netherlands or at its suppliers by civil or military authorities, lack of transport capacity, non or untimely delivery by suppliers of KWS Vegetables Netherlands, machine malfunctions, destructions and other standstills in the enterprises of KWS Vegetables Netherlands or suppliers, as well as a shortage, whether or not resulting from price increases of the products or from government measures, which completely or temporarily impede or hinder delivery.

Article 15 – Compliance

1. The Parties shall observe all and any laws applicable to KWS Vegetables Netherlands, the Buyer and their enterprises in connection with the execution and performance of these General Terms and Conditions, including but not limited to anti-money laundering regulations, anti-terrorist financing, anti-bribery and corruption regulations, and any international sanctions and boycott regulations, such that KWS Vegetables Netherlands will not be exposed to any liability given the Buyer's actions or the action of any third parties operating on behalf of the Buyer.

2. The Parties commit themselves in particular not to offer, grant, accept or ask directly or indirectly for presents, payments, rewards and/or privileges, especially to government members or officials (for the purpose of these General Terms and Conditions, "official" means statutory corporations, public authorities, agencies, as well as such entities controlled by the state), agents, political parties, party officials, or candidates as well as their families, and/or any other person or organization, if such a conduct constitutes an infringement of a regional law and/or territorial law and/or an infringement of the anti-corruption laws in the European Community.

3. Any violation of this article shall constitute a cause for the immediate termination of this agreement, in accordance with article 8.5.

Article 16 – Applicable Law

These General Terms and Conditions shall be governed by and construed in accordance with the law of the Netherlands. Applicability of the Vienna Sales Convention (CISG) (in Dutch: 'Weens Koopverdrag') is explicitly excluded.

Article 17 – Dispute Settlement

1. In so far as the preceding provisions do not provide for a shorter period, Buyer shall submit any complaints to KWS Vegetables Netherlands in writing no later than within 2 (two) months after the moment when Buyer could reasonably have been apprised of the reason for the complaint. After this period, all pertinent rights and defences of Buyer shall lapse. All rights of action and other rights or competences on any account towards KWS Vegetables Netherlands and/or third parties in connection with any (non) performance or any acts of commission or omission on the part of KWS Vegetables Netherlands shall become prescribed upon expiration of a period of 12 (twelve) months after the moment when Buyer could reasonably be aware of the existence of these rights of action or other rights or competences.

2. Any and all disputes arising from these General Terms and Conditions or from further agreements resulting from it, shall be settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (NAI) in Rotterdam. The Arbitral Tribunal shall comprise of one arbitrator. The venue of arbitration shall be in Amsterdam. The proceedings shall be conducted in the Dutch language, unless Parties agree to conducting the proceedings in another language. Joining the arbitral proceedings with other arbitral proceedings as provided in art. 1046 of the Dutch Code of Civil Procedure ('Wetboek van Burgerlijke Rechtsvordering') is excluded.

3. KWS Vegetables Netherlands shall be entitled, if it chooses to disregard the arbitration agreement concluded between Parties, to submit disputes to the competent court in Alkmaar or another court outside the Netherlands that would have been competent without arbitration agreement and/or choice of law. Notwithstanding anything to the contrary, KWS Vegetables Netherlands may seek injunctive or other preliminary relief, and enforce any of its Intellectual Property Rights, in any court of competent jurisdiction without being required to submit the matter to arbitration.

Article 18 – Data Protection

Both Parties shall comply with applicable data protection regulations in the context of their own personal data processing activities. KWS Vegetables Netherlands shall process Buyer's personal data in accordance with its privacy notice that can be found here: https://www.kwsvegetables.com/Terms_and_conditions.

All agreements to which KWS Vegetables Netherlands B.V. is a party shall be subject to the General Terms and Conditions of KWS Vegetables Netherlands B.V., including the stipulated limitation of liability, arbitration agreement and jurisdiction clause. These general conditions are digitally available at www.kwevegetables.com and filed with the Chamber of Commerce for Noordwest-Holland, and will be forwarded at no payment upon request. Applicability of the general conditions of Buyer is explicitly rejected.