

Annex B

Floridata General Terms and Conditions – on behalf of the Sustainable Sourcing Scan

Article 1 - Definitions

1. In these General Terms and Conditions the following terms written with a capital letter have the meaning referred to thereafter:

Account:	The personal environment within the Platform of the End User or Users to which they gain access by using their Login Data.
General Terms and Conditions:	These Floridata General Terms and Conditions on behalf of the Sustainable Sourcing Scan.
Data:	All data which the End User inputs into the Platform, also including - but not limited to - (company) data relating to purchase data, after which this Data is part of the Database.
Database:	The entirety of (personal) data and other information pertaining to Floridata and End Users which is collected via the Platform and managed by Floridata, including - but not limited to - the Data, Reports and Accounts.
Service:	The service which Floridata provides to the End User by means of the Platform, as described in more detail in Article 3.
End User:	The Party with which Floridata has concluded an Agreement.
Floridata:	Stichting Floridata, having its principal place of business and being established in 3526 KS Utrecht at Europalaan 400, the Netherlands, and listed in the commercial register of the Dutch Chamber of Commerce under number 59307331.
User:	The individual user affiliated to the End User and who has gained access to the Platform via the End User by means of its acquired Login Details and as such can use the Service.
IP Rights:	All intellectual property rights and associated rights such as copyrights, trade mark rights, patent rights, design rights, trade name rights, database rights and related rights, as well as rights to know-how and performances on a par with these rights, including preparatory material.
Login Details:	The username, password and any additional security information issued by Floridata to the End User with which the End User and/or User can gain access to the Account and use the Platform and the Service.
Party:	Floridata or the End User.
Platform:	The platform created by Floridata that can be accessed via the Website and by means of which the End User and users can use the Service after gaining access by means of Login Details.

Agreement:	The end user agreement concluded between Floridata and the End User, of which Agreement these General Terms and Conditions form an inextricable part.
Supervisory Board:	The Supervisory Board of Floridata, consisting of a maximum of 5 (five) natural persons, which supports the management board by providing advice (advisory task) and which supervises policy relating to the Sustainable Sourcing Scan.
VGB:	The sector organisation known as the Association of Wholesalers in Floricultural Products [Vereniging van Groothandelaren in Bloemkwekerijprodukten] in the floricultural sector for traders in flowers and plants, which is also the owner and licensor of the IP rights of the Sustainable Sourcing Scan and which is (financially) responsible for further development of the Sustainable Sourcing Scan.
Report:	Aggregated insights generated by Floridata on the basis of Data entered by the End User, which insights cannot be traced to an individual End User, relating to information and performance in the field of sustainable purchasing in the ornamental plant cultivation sector, on behalf of the Floriculture Sustainability Initiative.
Website:	Floridata's website which can be accessed via https://www.sustainablesourcingscan.eu , https://www.floridata.nl or https://www.floridata.eu , as well as all underlying pages.

Article 2 - General

1. These General Terms and Conditions apply to all legal acts by Floridata, all legal relationships between the Parties, such as the Agreement, all offers and quotations and the provision of the Service.
2. The applicability or the End User's purchase or other conditions is expressly excluded.
3. If any provision of the General Terms and Conditions and/or Agreement is null and void or nullified, the other provisions of the General Terms and Conditions and/or Agreement will remain fully in force. Floridata will replace the null and void or nullified provisions with new provisions, observing the purpose and intent of the null and void or nullified provision(s) as much as possible.
4. Floridata reserves the right to change or supplement these General Terms and Conditions. Amendments will also apply to Agreements already concluded, with due observance of a period of 30 days after the announcement of the amendment on the Website, via the Service, in writing or via email. If an End User does not wish to accept a change to the General Terms and Conditions, it can terminate the Agreement up to the date on which the new General Terms and Conditions take effect as of that date, unless Floridata has indicated that the old version of the General Terms and Conditions will continue to apply to the End User.
5. Changes to General Terms and Conditions and/or Agreement which are less important, at the discretion of Floridata, can always be implemented without the End User being asked to consent and without the End User being entitled to terminate the Agreement.

Article 3 - The Service

1. The Service provided by Floridata consists primarily of the online offering of, and the granting of access to the End User to, the Platform via the Website. The End User is able to have purchase related Data processed on the Platform. On the basis of the Data entered by the End User and stored in the Database, Floridata will also be able to display insights within the End User's Account by means of graphical display, among other things.
2. The End User accepts that the Platform only contains the functionalities and other properties as found by the End User and its Users at the time of use (on an 'as is' basis). Floridata will attempt to rectify defects in the Platform, but cannot guarantee that the Platform is error-free and/or that all errors will be rectified.
3. Floridata will do all it can to provide the Service with care. Unless explicitly agreed otherwise in writing, Floridata will provide the Service on the basis of a best-efforts obligation. Floridata is not liable or obliged to pay compensation vis-à-vis the End User for any loss or damage resulting from, or which is the consequence of, the (temporary) unavailability or (interim) failure of the Platform or the Website.
4. The End User will gain access to the Platform as a result of Floridata sending it the Login Details. This will be done as soon as possible after acceptance of the Agreement, but by no later than 1 (one) month thereafter.
5. Floridata can make changes to the content or scope of the Service. Floridata will inform the End User to that effect as soon as possible in writing or via email. In the event that, as a consequence of the change(s), the Service substantially changes compared to the Service as described in these General Terms and Conditions, the End User will be entitled to cancel the Agreement in writing within thirty days after it has been informed of the date the change will come into effect and Floridata will not be liable for any loss or damage resulting from the changes or the termination.

6. Floridata is at all times entitled, without prior notification and without being obliged to pay compensation or without being liable vis-à-vis the End User, (i) to implement procedural and technical changes and/or improvements on the Website and/or in the Platform and (ii) to shut down, restrict or remove the Website or the Platform (temporarily or permanently), if this is necessary for the reliability and/or continuity of the Platform.
7. Platform usage is entirely for the account and risk of the End User.
8. The Platform will be continually developed. In consultation with VGB and with due regard for the further development of the Floriculture Sustainability Initiative, as well as on the basis of proposals submitted by the End Users, the Supervisory Board will determine which priorities serve as a basis for the (further) development of (new) parts of the Platform.

Article 4 - Access to the Platform

1. In order to be able to use the Platform an End User or User is required to log in via the Website using the Login Details, after which they will be able to access the Account. Floridata will issue Login Details to the End User for the agreed number of Users. It is not permitted to allow more than one User to use a single set of Login Details. The End User and User are responsible for keeping the Login Details secret.
2. The Login Details issued by Floridata can be changed by an End User and/or User. Any change to Login Details is for the personal risk of the End User and/or User.
3. The End User is entirely responsible for the Login Details issued to it and all actions performed on the Platform by it and/or the Users with said Login Details. Floridata may assume that the User is actually the person who logs in with the Login Details. Floridata is never liable for misuse or loss of the Login Details.
4. As soon as an End User and/or User knows, or has reason to suspect, that a set of Login Details has ended up in the hands of unauthorised persons, they will immediately inform Floridata, without prejudice to their own obligation to take effective measures immediately, such as changing the Login Details. The End User indemnifies Floridata against all third-party claims which are the consequence of, or are connected to, the use of the Login Details issued to the End User.
5. The End User is itself entirely responsible for the purchase and/or correct operation of the (ICT) systems and infrastructure required to use the Service, including the Internet connection. The End User is not entitled to any payment if it is unable to use the Service for whatever reason which falls outside Floridata's responsibility.

Article 5 - Using the Platform

1. Floridata grants the End User the limited, personal, revocable, non-exclusive, non-transferable right, which cannot be sublicensed, to use the Platform and (parts of) the Database within its own business, on the basis of the Agreement. Any other or further use by the End User relating to the Platform and/or Reports and the Database is excluded. If the Agreement is terminated, for whatever reason, this right of use of the End User will expire directly and the End User will no longer be entitled to use the Platform.
2. The End User and/or User are not permitted to use the Platform or the Service in any way which:
 - a. infects the Platform with viruses, Trojan horses, worms, bots or other software which can damage, render unusable or inaccessible, delete or appropriate an automated action, or which are intended to circumvent technical protection measures of the Platform and/or Floridata's computer systems;

- b. violates the rights of Floridata and/or third parties including, but not restricted to, intellectual property rights or rights relating to the protection of privacy;
- c. is contrary to the Agreement, these General Terms and Conditions, or any applicable legislation and/or regulations;
- d. is otherwise illegal in any way or;
- e. can damage Floridata's interests and good reputation.

Article 6 - Data

1. The End User understands and acknowledges that entering Data and keeping it available is essential for a proper execution of the Service. The End User is obliged to process all Data known to it immediately via the Account on the Platform, as well as to correct, supplement, or delete incorrect and/or outdated Data, after which this Data will be part of the Database.
2. On the basis of the insights generated by Floridata the End User is able to estimate its own (sustainable) purchases by means of graphs and Excel downloads.
3. The Floridata Database is regarded as a database within the meaning of Article 1, under a of the Databases (Legal Protection) Act [Databankenwet]. The End User and/or User is only allowed to extract or reuse data from the Database if and insofar as permitted under these General Terms and Conditions.
4. The Data to be supplied by the End User relating to the purchase data must always be in the form of file types supported by the Platform, or must be entered manually, after which Floridata can process it into Insights, Reports, etc. and add these to the Database.
5. The End User is responsible for making sure that the Data which it and Users affiliated to it save and exchange via the Platform is legal and does not violate any third-party rights. Consequently, Floridata does not accept any liability for the saving or exchanging of Data via the Platform. The End User indemnifies Floridata against any third-party claim which is based on the assertion that the making available, using, processing, installing or incorporating of any material and/or Data within the Platform by the End User violates any third-party right.
6. Floridata reserves the right to shorten, modify, refuse or delete Data from the Database if such is necessary in the opinion of Floridata.

Article 7 - Intellectual Property rights

1. All IP rights relating to the Service, the Platform, the Database, the Reports and the Website are vested exclusively in Floridata and/or its licensor. Nothing in these General Terms and Conditions and/or the Agreement is intended to result, in any way, in the transfer of any Intellectual Property right.
2. The Data which is entered into the Platform by the End User and/or the Users affiliated to the End User, or is otherwise issued to Floridata, will continue to be the property of the End User. The End User will issue to Floridata a free, worldwide, irrevocable, perpetual, transferable right, which can be sublicensed, to use this Data within the framework of the Agreement, including - but not limited to - the performance of analyses in relation to the Data and its aggregation in Reports on behalf of the Floriculture Sustainability Initiative.
3. Floridata is allowed to take technical measures to protect the Platform which the End User is not permitted to remove or circumvent.
4. The End User will not delete, render illegible, conceal, or change indications by Floridata and/or its licensor concerning IP rights in relation to the Platform and the Reports.

5. Any use, copying, or publication of the works which falls outside the scope of the Agreement and the rights of use granted pursuant to these General Terms and Conditions, will not only be regarded as a breach, but also as a violation of the IP rights of Floridata and/or its licensor. In the event of a violation of the IP rights of Floridata and/or its licensor the End User will forfeit to Floridata an immediately due and payable penalty, which is not subject to judicial moderation or set-off, of EUR 25,000.00 per violating act and EUR 5,000.00 for each day that the violation continues, without prejudice to the other legal remedies which are available to Floridata on the grounds of the Agreement and/or applicable law, including the right to additional compensation.
6. Floridata is entitled to use the End User's full (trade) name and/or the logo/trademark in the communication which Floridata sends to (potential) End Users and third parties, in order to indicate whether the End User in question is using the SSS services, as long as the agreement is valid.

Article 8 - Privacy

1. Within the framework of the Service the End User and Users will issue personal data to Floridata, as referred to in the General Data Protection Regulation (GDPR). Floridata will only process and use these personal data insofar as is necessary within the framework of the Service and in accordance with its Privacy Statement, which can be found on, and downloaded from, the Website. Floridata will not issue the personal data to third parties, unless it is legally obliged to do so.
2. The End User guarantees (i) that it fulfils all applicable legal obligations relating to personal data, including but not limited to the obligations under the GDPR. The End User guarantees Floridata that these data are not unlawful and do not violate the rights of third parties and (ii) that it is entitled to issue the personal data to Floridata.
3. The End User indemnifies Floridata entirely against all third-party claims which in any way result from and/or are related to the processing by Floridata of the personal data entered by the End User on the Platform.

Article 9 - Guarantees and indemnifications

1. Floridata will make every effort to ensure that the insights it provides to the End User within its Account are always complete and correct. However, Floridata does not guarantee that all insights resulting from the Service are correct, complete and up-to-date.
2. Under these General Terms and Conditions and the Agreement the End User acquires a limited right to use Floridata's Database. The End User guarantees that the data made available to it in the Database will only be used for internal purposes on behalf of the FSI and that it will not use these data for any commercial purpose unless Floridata grants written permission to do so to the End User.
3. Unless explicitly agreed otherwise and/or explicitly determined otherwise in these General Terms and Conditions, Floridata is not responsible and/or liable for (the content of the) products and/or services provided by third parties. The conditions of those third parties which apply to said products and/or services provided by said third parties are also directly applicable to the End User. The End User indemnifies Floridata against any related third-party claims unless Floridata is imputably culpable with regard to those claims.

Article 10 - Liability

1. The End User is liable vis-à-vis Floridata for, and fully indemnifies Floridata against, all loss or damage and costs which Floridata suffers or incurs as a consequence of (i) an attributable failure in the fulfilment of the Agreement by the End User, (ii) any action by the End User or Users when using the Service, or (iii) an unlawful act. All the costs incurred, and loss or damage suffered by, Floridata which are connected in any way with such claims, will be compensated by the End User.
2. Floridata's liability for attributable failure in the execution of the agreement, an unlawful act, or any other act or omission by Floridata or its employees is limited to compensation for the direct loss or damage. Floridata's liability with regard to direct loss or damage will not exceed per event (whereby a series of related events is to be regarded as a single event) the total annual amount which the End User has paid to Floridata on account of the Agreement in the twelve (12) calendar months prior to the event in question. However, Floridata's total liability will not, in any event, exceed EUR 5,000.00 (ex. VAT).
3. 'Direct loss or damage' exclusively means:
 - a. material loss or damage;
 - b. expenses reasonably incurred by the End User to ensure that Floridata's performance is in accordance with the Agreement; however, this alternative damage will not be compensated if the Agreement has been terminated by the End User (including termination by the competent court on the End User's behalf) (Article 6:265 of the Dutch Civil Code);
 - c. expenses reasonably incurred by the End User to establish the cause and extent of the damage, insofar as the establishment relates to direct loss or damage within the meaning of this Agreement;
 - d. expenses reasonably incurred to prevent or limit damage, insofar as the End User can demonstrate that these expenses have resulted in a limitation of the direct damage within the meaning of this Agreement.
4. Floridata is not liable for loss or damage other than direct loss or damage as described in Article 10.3, including - but not limited to - consequential damage arising from, or in connection with, the Agreement including, without limitation, loss of profit, loss of turnover, loss of anticipated savings and other similar financial losses such as loss of goodwill or good name or other incidental, indirect, punitive or exemplary loss or damage of any kind, irrespective of whether the End User has notified Floridata of such possible loss or damage, compensation or loss.
5. Floridata will only be liable due to attributable failure in the fulfilment of the Agreement if the End User places Floridata in default immediately and duly in writing, while setting a reasonable deadline for rectifying the failure, and Floridata continues to fail attributable in the fulfilment of its obligations after that deadline as well. The notice of default must include a detailed description of the failure, so that Floridata can respond adequately.
6. A condition for the creation of any right to compensation is always that the End User reports the damage to Floridata in writing as quickly as possible after it has occurred. The End User's right to claim compensation under this Agreement, on the grounds of an unlawful act or otherwise, lapses in any event one (1) year after the event occurred which resulted in the claim or legal proceedings being brought.
7. The End User is fully responsible and liable for compliance with these General Terms and Conditions by its User(s). The End User indemnifies Floridata against all claims which result from any use of the Platform by a User.

8. Floridata does not accept any responsibility or liability relating to any decision which the End User takes on the basis of insights and Reports, or any use of the Service by the End User or Users.
9. Neither is Floridata liable in situations of force majeure which, in any event but not exclusively, means:
 - Internet failures, the non-functioning or improper functioning of hardware, software and communication systems, including computer malfunctions, power cuts, etc., and;
 - unlawful conduct by Users or third parties, the distribution of (computer) viruses via the Platform, or other illegal programmes or files, the hacking of the Platform and/or of the software and communication systems of Floridata.

Article 11 - Termination

1. Each of the Parties is entitled to dissolve the Agreement extrajudicially if the other Party attributable fails in the fulfilment of fundamental obligations on account of the Agreement and if the failure is not rectified within a reasonable period of time after having been duly placed in default in writing, without prejudice to the right to take additional legal measures against the other party, also including - but not limited to - claiming compensation.
2. Each Party is entitled to cancel the Agreement with immediate effect by means of a letter to that effect, if:
 - (i) the other Party has been granted a provisional or definitive suspension of payments;
 - (ii) a petition for bankruptcy proceedings has been filed against the other party;
 - (iii) (some of) the goods of the other Party have been seized.
 - (iv) the other Party is liquidated or otherwise ceases its activities.
3. Moreover - in addition to the other (legal) remedies at its disposal - Floridata is entitled at all times to dissolve the Agreement with immediate effect, without prior notification and without it being obliged to pay compensation vis-à-vis the End User, if the End User does not fulfil its payment obligation, or if the End User acts contrary to the Agreement and/or the General Terms and Conditions.
4. The work performed by Floridata before dissolution and the related payment obligation will not become the subject of reversal in the event of dissolution. Amounts invoiced by Floridata before the dissolution remain due in full and become immediately payable at the time of the termination.
5. As soon as the Agreement ends, for whatever reason, the End User will permanently cease to make any use of the Platform, Data and insights by it and its User(s).
6. After termination of the Agreement, for whatever reason, the right of use referred to in Article 7.2 to the Data entered by the End User will not expire.

Article 12 - Miscellaneous

1. These General Terms and Conditions, the Agreement and any use of the Platform, the Service and the Website are subject to Dutch law.
2. The End User is not allowed to transfer or pledge its rights and obligations under the Agreement without the written permission of Floridata. Floridata is entitled to assign its rights and obligations under the Agreement to third parties, or to subcontract the execution of the Agreement wholly or partially to third parties.