

Limitations of Liability

This document limits our liability, please read it.

Acceptance of product shipped by McGregor Plant Sales, McHutchison, Inc. and/or FlorExpo (collectively, "SUPPLIERS") constitutes acceptance of the following conditions of sale. Please read them.

Allocation of Risk of Nonperformance

Failure of cutting to root and/or reduction of yield may occur as a result of environmental factors including cold temperatures, heat, excess moisture, drought, wind and hail, disease, pests, inadequate fertility or misapplication of pesticides. Cuttings at times carry diseases which may not be apparent to the SUPPLIERS, Buyer or User. All risks of nonperformance, reduced performance and/or crop damage due to these factors shall be assumed by the Buyer and User.

Disclaimer of Warranty

SUPPLIERS MAKE NO OTHER EXPRESS WARRANTY. SUPPLIERS DISCLAIM ALL IMPLIED WARRANTIES INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. TO THE EXTENT PERMITTED BY STATE AND FEDERAL LAW, ALL SUPPLIERS CUTTINGS ARE SOLD AS IS.

Exclusive Remedy

BUYER'S AND USER'S EXCLUSIVE REMEDY AND SUPPLIERS SOLE LIABILITY FOR LOSS OR DAMAGE ARISING FROM PURCHASE OR USE OF SUPPLIERS CUTTINGS SHALL BE AN AMOUNT EQUAL TO THE PRICE PAID FOR THE CUTTINGS.

Limitation of Liability

BUYER OR USER MAY NOT RECOVER ANY AMOUNT FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFIT, LOSS OF YIELD AND AMOUNTS EXPENDED IN USING OR GROWING SUCH CUTTINGS, OR FOR HARVESTING THE PRODUCE OF SUCH CUTTINGS. THIS LIMITATION OF LIABILITY SHALL BE APPLICABLE TO ANY CLAIM PRESENTED TO SUPPLIERS WHETHER THE LEGAL THEORY FORMING THE BASIS OF SUCH CLAIM INVOLVES CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

Buyer and User agree that if SUPPLIERS refund an amount equal to the price Buyer or User paid for SUPPLIERS products, this limitation of liability will not have failed of its essential purpose.

IMPORTANT NOTICE REGARDING PLANT BORNE DISEASES

SUPPLIERS have undertaken all reasonable precautions to identify and control plant borne pathogens on its cuttings. Cutting treatments cannot assure complete absence of diseases, especially if the disease is already present in the buyer's field or neighboring fields from other sources. **SUPPLIERS DISCLAIM ALL WARRANTIES REGARDING PLANT BORNE DISEASE, EITHER EXPRESS OR IMPLIED, OTHER THAN THE WARRANTIES SET FORTH HEREIN.**

Upon receipt of product, you may re-test samples of this material at an independent laboratory of your choice. If any positive test result is returned, you must notify us, in writing, within 3 business days. If we receive no written claims or complaints regarding the supplied material within two weeks of shipment you agree that SUPPLIERS have performed their obligations under the contract. SUPPLIERS shall not be liable in any way, directly or indirectly, for material that was not re-tested within the two week period or if we were not informed of a positive test result within the 3 business day period.

FORCE MAJEURE

No Party shall be liable for any failure to perform its obligations to the contract to the extent that performance is delayed or prevented by any circumstances (except financial) reasonably beyond its control or as a result of Acts of Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout, interruption or failure of electricity, telephone or internet service or unavailability of raw materials.