# ****Fruit production declaration / non-propagation statement****

The undersigned,

Company name:
Address:
Telephone number:
Email:
Chamber of commerce number:
VAT number:
Legally represented by:

hereinafter termed as “The Grower” acknowledges that Flevo Berry Holding B.V. (Flevo Berry Holding) is the breeder and holder of the intellectual property rights and Flevo Berry B.V. (Flevo Berry) is the holder of the exclusive exploitation rights, of The Varieties listed in Appendix I to this statement. Both companies have their registered office at Enserweg 23, 8307 PK Ens, The Netherlands.

With reference to \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (contract-/order number) the Grower wishes to purchase strawberry plants of (one of) The Varieties for the purpose of fruit cultivation from the licensee \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (company name)

The grower agrees towards both Flevo Berry and Flevo Berry Holding to the following **Terms & Conditions for any and all past, current and future purchases of and fruit production with plant material of The Varieties:**

1. This fruit production declaration / non-propagation statement covers each supply of plant material of The Varieties, and per variety, is valid until the expiration date of the variety as mentioned in Appendix 1.
2. The Varieties, are protected by Community Plant Variety Rights in the European Union. Information regarding the registration and protection of The Varieties can be found at [www.cpvo.europa.eu/en](http://www.cpvo.europa.eu/en).
3. Any plant material of The Varieties may only be acquired from an official licensee of Flevo Berry or Flevo Berry Holding.
4. The supplied plant material of The Varieties is for the strawberry production only and any form of propagation as well as any other preliminary treatment aimed for propagation, without permission of breeder, is illegal as well as unauthorized, and therefore actionable by law.
5. The Grower agrees explicitly not to trade, resell nor not to offer for sale any plant material of The Varieties, whether against payment or free of charge, nor to use any part of this material or tolerate such use by any third party, in order to propagate the plants, nor to use it in any way whatsoever for the purpose of propagation.
6. In the event of any breach of the obligations set out in the terms and conditions and regardless the total number of plants of The Varieties that are offered for sale or are traded by the Grower, it will be regarded that the plant material that has been supplied under this statement has been received under false and illegal pretenses of the Grower.
7. The planting in a so-called matted row system in which strawberry plants of The Varieties are planted to give them space and to multiply themselves into the rows to increase the plant density with the aim to obtain higher fruit production in the subsequent growing years is not allowed under this agreement and will be deemed as propagation.
8. As soon as strawberry plants of The Varieties produce runners (regardless of whether these runners are rooted and/or are still connected to its parent plant), the Grower is obliged to remove and destroy these runners.
9. If the Grower after the judgment of the breeder makes no reasonable effort to remove and destroy the appearing runners at regularly basis during the fruiting period with regards to The Varieties and these runners are still present after the 1st of August of each year, the Grower agrees that the supplied plant material is / has been used for the purpose of propagation and thereby infringed the delivery conditions as set forth in this declaration and it will be deemed as illegal action of the Grower.
10. All plants of The Varieties supplied under this declaration must be planted only in the country of delivery.
11. All plants of The Varieties must be planted on the property of the Grower or on property leased by the Grower.
12. In the event of breaching the obligations following this declaration, the Grower forfeits an immediately payable fine of € 25,000 plus € 1.00 for every plant of The Varieties held by the authorised fruit grower or resold by the strawberry fruit grower to a third party. This fine is in favour of Flevo Berry, without prejudice to Flevo Berry's statutory or other right to claim full damages and/or the surrender of profit and/or the surrender of all plant material of The Varieties from The Grower. The payment term for this fine amounts to 14 days after invoice date.
13. In the event of unlawful propagation by the Grower, at variance with the abovementioned Article 12, the parties agree that The Grower is liable for a fine of € 50,000 to Flevo Berry, plus € 3.50 for every parent plant that the Grower has in use for strawberry fruit production. This fine is in favour of Flevo Berry, without prejudice to the statutory or other right to claim full damages and/or the surrender of profit and/or the surrender of all plant material of The Varieties from The Grower. The payment time for this fine amounts to 14 days after invoice date.
14. Upon Flevo Berry's first request, the Grower shall provide Flevo Berry in writing with the details that demonstrate on which plots the plants of the strawberry variety can be found, stating per batch the awarded batch number, the net plot surface area, the propagation areas, the address and name of the plot used. Surface areas must be given in m².
15. The Grower shall ensure that Flevo Berry or its authorised representative, or a third party designated by Flevo Berry shall have free access to The Grower’s business, including all plots and/or business premises, also for the purpose of checking compliance with the provisions of this license agreement. The producer shall also ensure that all plant material of The Varieties can be traced unambiguously and unmistakably.
16. The Grower shall grant Flevo Berry or its authorised representative or a third party designated by Flevo Berry access to his administration/accounts in order to facilitate checks of compliance with this declaration. The Grower is only permitted to retain plant material of the strawberry variety on his own land, The Grower is not permitted to have fruit production carried out by a third party or at the business of a third party.
17. If the Grower discovers a new variety that originates from the mutation of a variety for which Flevo Berry is licensee, The Grower shall report this to Flevo Berry immediately and deliver the plants of the new variety to Flevo Berry. Flevo Berry Holding acquires ownership of this new variety free of charge. Only Flevo Berry Holding is entitled to apply for plant breeders' rights for the new variety and shall bear the costs of the application.
18. This statement is solely governed by Dutch law, on the understanding that where it concerns community plant variety rights EU Regulation 2100/94 of 27 July 1994 on Community plant variety rights and the corresponding regulations also applies. The applicability of the Vienna Sales Convention is excluded explicitly.
19. The standard terms and conditions of The Grower do not apply and are rejected explicitly by the parties.
20. Any disputes, including disputes about breach of this agreement, that may arise as a result of this agreement, shall be submitted exclusively to the Dutch Court in The Hague.

# Appendix 1

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| **Application number** | **Variety name** | **Species name** | **Grant number** | **Status** | **Application date** | **Expiration date** |
| 20130898 | Altess | Fragaria x ananassa Duchesne ex Rozier | 46239 | Granted | 21/03/2013 | 31/12/2042 |
| 20152404 | Bravura | Fragaria x ananassa Duchesne ex Rozier | 52177 | Granted | 16/10/2015 | 31/12/2044 |
| 20152401 | Dahli | Fragaria x ananassa Duchesne ex Rozier | 52654 | Granted | 16/10/2015 | 31/12/2044 |
| 20130897 | Faith | Fragaria x ananassa Duchesne ex Rozier | 43033 | Granted | 21/03/2013 | 31/12/2041 |
| 20183414 | Falco | Fragaria x ananassa Duchesne ex Rozier | Pending | Active application | 17/12/2018 | Pending |
| 20111346 | Favori | Fragaria x ananassa Duchesne ex Rozier | 37436 | Granted | 24/05/2011 | 31/12/2039 |
| 20071367 | Flair | Fragaria x ananassa Duchesne ex Rozier | 26955 | Granted | 21/06/2007 | 31/12/2035 |
| 20212779 | Florice | Fragaria x ananassa Duchesne ex Rozier | Pending | Active application | 05/11/2021 | Pending |
| 20111344 | Florin Florentina | Fragaria x ananassa Duchesne ex Rozier | 40665 | Granted | 24/05/2011 | 31/12/2040 |
| 20081320 | Florin Florina | Fragaria x ananassa Duchesne ex Rozier | 30146 | Granted | 16/06/2008 | 31/12/2036 |
| 20132225 | Furore | Fragaria x ananassa Duchesne ex Rozier | 48941 | Granted | 23/08/2013 | 31/12/2043 |
| 20152405 | Hademar | Fragaria x ananassa Duchesne ex Rozier | 52178 | Granted | 16/10/2015 | 31/12/2044 |
| 20152407 | Magnus | Fragaria x ananassa Duchesne ex Rozier | 51388 | Granted | 16/10/2015 | 31/12/2044 |
| 20152402 | Sonsation | Fragaria x ananassa Duchesne ex Rozier | 51387 | Granted | 16/10/2015 | 31/12/2044 |
| 20130899 | Sussette | Fragaria x ananassa Duchesne ex Rozier | 43034 | Granted | 21/03/2013 | 31/12/2041 |