

TERMS AND CONDITIONS OF SUPPLY OF SEEDS

Between United Oilseeds Marketing Ltd, of William Road, Devizes, Wiltshire, SN10 3US, UK (the "Seller") and the person(s), firm or company placing an order (the "Buyer").

These terms and conditions are only applicable to the sale/purchase of seeds for sowing

1.- GENERAL

In these conditions (the "Conditions") the following words have the following meanings:

"Contract" means any contract between the Seller and the Buyer for the sale and purchase of any seeds in the United Kingdom;

"Delivery Point" means the place where delivery of the Seeds is to take place under Condition 5.1; and

"Seeds" means any seeds agreed in the Contract to be supplied to the Buyer by the Seller (including any part or parts of them).

2.- APPLICATION OF THESE TERMS

- 2.1.- Subject to any variation under condition 2.2 the Contract will be on these Conditions to the exclusion of all other terms and conditions (including and terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2.- These Conditions apply to all the Seller's sales and any variation to these Conditions and any representations about the Seeds shall have no effect unless expressly agreed in writing and signed by an authorised person on behalf of the Seller.
- 2.3.- Each order for Seeds by the Buyer from the Seller shall be deemed to be an offer by the Buyer to purchase Seeds subject to these Conditions.
- 2.4.- No order placed by the Buyer shall be deemed to be accepted by the Seller until a written acknowledgement of order is issued by the Seller or (if earlier) the Seller delivers the Seeds to the Buyer.
- 2.5.- The Buyer must ensure that the terms of its order and any applicable specification are complete and accurate.

3.- QUALITY OF SEEDS

All information concerning the Seeds and their performance given orally or in writing by the Seller is given in good faith, but is not to be taken as a representation by the Seller as to performance and suitability of Seeds sold. Performance may depend on local climatic and other conditions. Sales are made by the Seller on the basis that the Buyer has satisfied itself on the Suitability of the Seeds for its requirements. Subject only to the provisions of clause 17, no warranty or representation is given or implied as to the quality of the Seeds or as to the likely level of germination to be achieved or achievable by the Seeds.

4.- TITLE AND RISK

- 4.1.- The Seller retains ownership of the Seeds until full payment (in cash or cleared funds) has been received for them and all other sums due from the Buyer to the Seller. The Seeds shall be at the Buyer's risk upon delivery of the Seeds at the Delivery Point.
- 4.2.- Until ownership of the Seeds has passed to the Buyer, the Buyer must: (a) hold the Seeds on a fiduciary basis as the Seller's bailee; (b) store the Seeds (at no cost to the Seller) separately from all other seeds of the Buyer or any third party in such a way that they remain readily identifiable as the Seller's property; (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Seeds; (d) maintain the Seeds in satisfactory condition insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller. On request the Buyer shall produce the policy of insurance to the Seller; and (e) hold the proceeds of the insurance referred to in Condition 4.2(d) on trust for the Seller and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
- 4.3.- The Seller shall be entitled to recover payment for the Seeds notwithstanding that ownership of any of the Seeds has not passed from the Seller.
- 4.4.- The Buyer grants the Seller, its agents and employees an irrevocable licence at any time to enter any premises where the Seeds are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

5.- DELIVERY TERMS AND NON-DELIVERY

- 5.1.- Unless otherwise agreed in writing by the Seller delivery of the Seeds shall take place at the Seller's place of business.
- 5.2.- Any dates specified by the Seller for delivery of the Seeds are intended to be an estimate only and time for delivery shall not be made of the essence by notice. If no dates are specified, delivery will be within a reasonable time and any delays in the delivery of the Seeds shall not entitle the Buyer to refuse to take delivery of the Seeds.
- 5.3.- If delivery of the Seeds occurs by way of instalments the Seller shall be entitled to suspend any deliveries in the event that payment is not made by the Buyer in accordance with these terms and conditions.
- 5.4.- If for any reason the Buyer will not accept delivery of any of the Seeds when they are ready for delivery, or the Seller is unable to deliver the Seeds on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations: (a) risk in the Seeds will pass to the Buyer; (b) the Seeds will be deemed to have been delivered; and (c) the Seller may store the Seeds until delivery whereupon the Buyer will be liable for all related costs and expenses (including without limitation storage and insurance).

6.- TECHNICAL ADVICE

The Seller assumes no liability for any technical advice given or results obtained from any technical advice, all such advice being given and accepted at the Buyer's risk. The Buyer shall be responsible for making its own tests and verifications before applying such technical advice.

7.- WARRANTIES

- 7.1.- The Seller warrants title and that the Seeds sold shall conform to the Seller's standard specifications. Seller excludes any warranty of any kind, express or implied, with respect to the seeds sold hereunder as to merchantability, fitness for a particular purpose or any other matter with respect to the seeds whether used alone or in combination with other products.
- 7.2.- Subject to Condition 7.1, all warranties (express or implied), conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract with respect to the Seeds whether used alone or in combination with other products.

8.- CLAIMS

Any claim for shortage or for damage incurred in transit of the Seeds must be made within three (3) days after the Buyer's receipt of the Seeds. All other claims, including claims for alleged defective seeds, must be made within ten (10) days after the Buyer learns of the facts on which such claim is based, but in no event later than thirty (30) days after the Buyer's receipt of the Seeds. All claims not made in writing and received by the Seller within the time periods specified above shall be deemed waived. No claim will be allowed or returned Seeds accepted if the Seeds have been treated or processed in any manner, except upon proof satisfactory to the Seller of the existence of a latent defect not ascertainable before treating or processing and then only if such proof is submitted within ten (10) days after such defect becomes apparent.

9.- LIMIT OF LIABILITY

- 9.1.- Subject to Conditions 7 and 8, the following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

Any breach of these Conditions; and

Any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

THE BUYERS ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CONDITION 9.2

- 9.2.- For the avoidance of doubt this Condition is subject to Condition 7: (a) the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited in all cases to the replacement of the Seeds or refund of the purchase price; and (b) the Seller shall not be liable to the Buyer for any indirect or consequential loss or damage (whether for loss or profit, loss of business, depletion of good-will or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 9.3.- The Buyer shall indemnify the Seller against any liability for any personal injury and/or property damage arising out of handling, possession or use of the Seeds by the Buyer.

10.- PRICE AND PAYMENT

10.1.- Unless otherwise agreed, payment shall be made within 30 days of invoice.

10.2 The Buyer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order for the relevant set-off requiring an amount equal to such deduction to be paid by the Seller to the Buyer.

10.3.- If the Buyer fails to pay the Seller any sum due pursuant to the Contract all outstanding invoices and payments payable to the Seller shall become due immediately. The Buyer will be liable to pay interest to the Seller on such sums from the due date for payment at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998 and Late Payment of Commercial Debts Regulations 2002 as they are in force from time to time and taking account of any amendment or re-enactment, accruing on a daily basis until payment is made, whether before or after any judgment. Without prejudice to any of the rights or indemnities of the Seller, the Seller shall have the right to cancel any further deliveries if the Buyer fails to make any payment when due. The Buyer shall reimburse the Seller for all administrative and legal expenses incurred by the Seller in the collection of any such amounts payable by the Buyer.

11.- SALE OR RETURN

11.1.- The Seller may at its' absolute discretion agree to supply consignments of Seeds on a sale or return basis.

11.2.- Sale or return orders must have a minimum order value of [£ 1,000].

11.3.- All unsold Seeds must be returned (at the cost of the Buyer) before or on the date specified by the Seller in order to qualify for return. Any Seeds not returned by that date shall be deemed to have been purchased unconditionally by the Buyer.

11.4.- Unsold Seeds must be returned in their original packaging, unopened and undamaged.

11.5.- The Seller accepts no liability for Seeds damaged in transit whilst being returned to the Seller and the Seeds shall be at the Buyer's risk until the Seeds have been returned to, inspected and accepted by the Seller.

12.- ORDER CANCELLATION

Subject to Condition 14, if the Buyer cancels in part or in whole any order that has been accepted by the Seller, the Buyer shall be liable to pay to the Seller a liquidated sum of damages equal to 30% of the total order as compensation for the loss to Seller arising out of such cancellation.

13.- TERMINATION

If payment is not received by the due date, or if the Buyer has a bankruptcy order made against it or makes an arrangement or composition with its creditors, or otherwise takes the benefit of any statute for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer, the Seller reserves the right to terminate the Contract without having to give notice of default. Any instalments paid by the Buyer may be retained by the Seller by way of damages and/or interest.

14.- FORCE MAJEURE

The Seller may defer the date of delivery or cancel the Contract or reduce the volume of the Seeds ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Seller including, without limitation, acts of God, governmental actions, war or national emergency or defence requirements, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, injunction, labour, containers, transportation facilities, accident, malfunction of machinery or apparatus, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable raw materials including fuel and power. Provided that, if that event in question continues for a continuous period in excess of 90 days, the Buyer shall be entitled to give notice in writing to the Seller to terminate the Contract. If because of any such circumstance, the Seller is unable to supply the total demand for the Seeds, the Seller may allocate its available supply among itself and all of its customers, including those not under Contract, in an equitable manner. Except to the extent of cancellation of deliveries or allocation of supply hereunder, the Contract shall remain unaffected.

15.- PATENTS AND TRADEMARKS

The Buyer expressly assumes all risks of patent, trademark or plant variety rights infringement by reason of its use or sale of the Seeds, either alone or in conjunction with other materials. The Buyer shall immediately inform the Seller of any claims or legal proceedings involving the Buyer and regarding the patents or trademarks of the Seeds delivered, and shall indemnify the Seller from any such claims or legal proceedings. The Buyer agrees to discuss and agree with Seller on the defence strategy that shall be used against such a claim or in legal proceedings.

16.- APPLICABLE LAW AND ENTIRE AGREEMENT

These Conditions are to be construed according to the laws of England and the parties submit to the non-exclusive jurisdiction of the English courts. These Conditions constitute the full understanding between the parties, and no terms, conditions, understanding or agreement purporting to modify or vary the terms of these conditions shall be binding unless made in writing and signed by the parties.

17.- MISCELLANEOUS

17.1.- If the licence agreement has been concluded between the parties, the licence agreement shall prevail in the event of a conflict between these Conditions and the licence agreement.

17.2.- If any provision of these Conditions is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of these Conditions and the remainder of such provision shall continue in full force and effect.

17.3.- Failure or delay by the Seller in enforcing or partially enforcing any provision of these Conditions will not be construed as a waiver of any of its rights under the Conditions and/or the Contract.

17.4.- Any waiver by the Seller of any breach of, or any default under, any provision of these Conditions by the Buyer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of these Conditions and/or the Contract.

17.5.- The parties to these Conditions and the Contract do not intend that any term of these Conditions and/or the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to these Conditions and/or the Contract.

17.6.- The Buyer may not assign or transfer or sub – contract any of its rights, benefits or obligations under this Contract without the prior written consent of the Seller.

18.- CERTIFICATION

The seeds delivered are certified seeds and comply with OECD's certification rules, with the EU rules and norms in the EU and with the national rules where applicable.

19.- WARRANTY FOR THE SALE OF CONVENTIONAL SEEDS

The Seller certifies that the seeds delivered are conventional seeds, meaning that they have been produced from parental seeds, which were not genetically modified, and have been produced according to specifications developed to minimise the adventitious presence of impurities, including genetically modified impurities. The Seller further certifies that its production methods are based on accepted industry standards for seed production and seed purity.

20.- ARBITRATION

In the case of disputes, which cannot be resolved amicably between the parties, such disputes shall be submitted by the parties to the arbitration procedures of the AIC (Agricultural Industries Confederation) whose decision shall be final and binding on both parties.