



APPROVED AIC CONTRACT NOTE FOR SALES OF SEED
(excluding the sale of seed for further multiplication purposes)
This Contract is valid only when issued by a Member or Licensee of the Agricultural Industries Confederation Limited

Date:

Buyers Ref: Sellers Ref:

Sellers:
.....

Buyers:
.....

have this day entered into a contract on the following terms and conditions:

- 1. **Description of Goods:**
.....
- 2. **Quantity:** kg/tonnes/area packs*
- 3. **Packaging:** (eg. 500kg bag; area pack etc.) Packed Product Gross/Net Weight*
..... Pallets Chargeable/Included*
- 4. **Price:** per kg/tonne/area pack ex-store/delivered to*
..... (location)
- 5. **Period of Delivery:**
- 6. **Quality:**
.....
- 7. **Payment Terms:**
- 8. **Special Terms:**
.....
.....

THIS CONTRACT IS SUBJECT TO THE TERMS AND CONDITIONS ON THE FOLLOWING PAGES SO FAR AS THEY ARE CONSISTENT WITH THE TERMS SET OUT ABOVE. WHERE THERE IS A CONFLICT THE ABOVE TERMS WILL PREVAIL.

* Delete words which do not apply

Signature:

- 9: Standards:** Seed sold which is the subject of this contract is guaranteed to comply at the time of delivery with the UK Seed Regulations currently in force. All information whether contained in the Seller's catalogue or given by his staff relation to varieties, varietal characteristics or periods of maturity or fitness for any particular purpose or otherwise relating to the performance of seeds, is given for general guidance only as variation in local or climatic conditions can render such information inaccurate. Buyers are therefore advised that any such information given to them does not constitute a representation as to these matters and should not be relied on as such. Buyers should satisfy themselves that any such seeds which they order are of a variety and/or mixture and performance satisfactory for their requirements and order such seeds at their own risk.

Unless otherwise agreed between the parties, any advice given by the Seller or his staff to the Buyer shall not form part of the contract. Buyers are advised that Sellers' staff have no authority to give more than general guidance as described above and the Seller disclaims liability for any advice given or opinion expressed by them. Such advice is followed, or such opinion acted upon, entirely at the Buyer's own risk.

- 10: Availability:** Seeds are growing organisms and their growth is subject to pests, disease and climatic conditions. All sales of UK grown seeds are therefore subject to harvest and the Seller reserves the right in the event of market shortages to apportion such supplies as become available among his customers at his sole discretion. Where seeds sold are imported, their sale is subject to supplies being made available to the Seller by his normal supplier with whom the contract for their supply has been placed. In the event of failure of such supplies from abroad, and the seeds not being replaceable from other sources at a price no greater than that charged in the present contract, this sale agreement will be deemed to be cancelled without any liability to either party providing notice of such failure is given to the Buyer at the earliest opportunity.
- 11: Retail Substitution:** In accordance with the usual practice of the trade, the Seller reserves the right, in the event that the variety and/or mixture ordered is not available, to substitute at his option, a suitable alternative variety and/or mixture. If the substituted variety and/or mixture is not acceptable to the Buyer, he must return it, unopened, to the Seller within 14 consecutive days of receipt, when any price paid and transport costs will be refunded in full. This sale agreement will then be deemed to be cancelled without any liability to either party.
- 12: Claims:** Claims based upon those defects of quantity, quality or condition which should be apparent upon reasonable examination by the Buyer shall be advised immediately and confirmed by fax, e-mail or other electronic means or by letter sent by first class post, within two business days of arrival of the goods at their ultimate destination within the UK. In the event of a claim by the Buyer, the Seller reserves the right to inspect the goods prior to any further action being taken.
- 13: Limitation of Liability:** The Seller warrants that the seed supplied shall be of the species and type specified in the contract and accepts liability for any damage resulting from any breach of this warranty.

Except as provided above, in the event of any seeds sold not complying with the express terms of the contract of sale, or any of the correct species and type proving defective in varietal purity, the Seller will at his option replace the defective seeds free of charge to the Buyer or will refund all payments made by the Buyer in respect of the defective seeds and this will shall be the limit of the Sellers obligation.

All liability is excluded for any loss or damage arising from the use of any seed supplied and for any consequential loss or damage arising out of such use or any failure in the performance of or any defect in any seeds supplied and for other loss or damage including, without prejudice to the totality hereof, any total or partial failure of the resultant crop since such failure can depend on many natural and other factors beyond the Sellers control, save for at the Sellers option a liability for any such replacement or refund as aforesaid. In accordance with the established custom of the seed trade, any express or implied conditions, statement or warranty, statutory or otherwise, not stated in these conditions is also excluded. The price of any seeds sold or offered for sale is based upon the foregoing limitations upon the Sellers liability. The price of such seeds would be much greater if a more extensive liability were required to be undertaken. In accepting the seed upon these conditions, the Buyer acknowledges that the limitation of the Sellers liability is fair and reasonable.

- 14: Latent Defect:** Disease of plants can be transmitted by the wind, insects, animals or human agencies and may also be seed borne or soil borne. The Seller believes the seed hereby sold to be free from latent defect, but it is not a condition of sale nor does the Seller warrant that any seed sold shall be free from such defect and will not be responsible in any way for the resultant crop.
- 15: Complaints:** No complaint under the terms of this contract can be considered unless clear proof can be given that the seed grown and alleged to have performed unsatisfactorily was in fact the seed supplied and that it was sown on suitable prepared ground, treated carefully and correctly throughout and subject only to such conditions as were likely to produce a favourable crop.

- 16: Plant Varieties & Seeds Act 1964 & Plant Varieties Act 1997:** The price of any variety which becomes the subject of a grant of plant breeders' rights under the Plant Varieties & Seeds Act 1964, as amended and/or the Plant Varieties Act 1997, as amended, will be adjusted to include the cost of any royalty payable to the owner of the rights. If, in the case of a variety which is already the subject of plant breeders' rights, there is any change in the rate of royalty payable to the owner of the rights, the price will be adjusted accordingly.
- 17: Farm Saved Seed:** The Buyer shall ensure they comply promptly and fully with all legal obligations in relation to Farm Saved Seed, including the obligation to provide all relevant information upon request by or on behalf of the holder of relevant plant breeders' rights. These legal obligations are set out in various places, including Council Regulation (EC) No.2100/94; Commission Regulation (EC) No.1768/95; the UK Plant Varieties Act 1997 and the regulation and implementing rules granted under the Act, together with any subsequent amendments relating to all of the aforementioned.
- 18: Seed Treatment:**
- (a) Where at the Buyers request any treatment whether chemical or otherwise is applied to the seed, the Sellers' liability shall be limited to such treatment being carried out in the correct manner and/or in accordance with the instructions given by the manufacturer of the chemical in question. The Seller accepts no responsibility whatsoever for the effectiveness of such treatment or any damage direct or consequential which may result therefrom.
 - (b) Where the seeds have been treated with a liquid or powder to control pests or diseases, or have been fumigated or pelleted, the purity and germination percentages are based on tests made before the treatment.
- 19: Delivery:** Each delivery or consignment shall stand as a separate contract. Delivery is at the Seller's option. Where the contract specifies a particular delivery period, the Buyer will accept delivery within that period.
- 20: Return of Seed:** The return of seed purchased under this Contract for credit, where such goods are found to be surplus to the requirements of the Buyer, is at the complete discretion of the Seller and the Seller's prior agreement must be sought. Where an agreement for the return of seed is obtained a handling charge may be applied which will be made known to the Buyer at the time agreement is given.
- 21: Property in Goods & Risk:**
- (a) Until paid for in full, all goods supplied by the Seller remain his property;
 - (b) Risk passes to the Buyer on delivery of the goods.
- 22: Default:** In the event of default of fulfillment of contract by either party, the other at his discretion shall, after giving notice by fax, letter or e-mail, have the right to sell or purchase, as the case may be, against the defaulter and the defaulter shall make good the loss, if any, on such purchase or sale on demand. If any party liable to pay be dissatisfied with the price of such sale or purchase or if the above right is not exercised and damages cannot be mutually agreed, any damages payable by the party in default shall be settled by arbitration. In the event of default by either party entitling the other party to damages, such damages shall be based upon the actual or estimated value of the goods on the date of default, to be mutually agreed or settled by arbitration, but nothing contained or implied under this contract shall entitle the Buyer/Seller to recover any damages in respect of loss of profit upon any sub-contracts made by themselves or others. In the event of default, damages if any shall be computed upon the mean contract quantity. The date of default shall be the first business day following the expiry of the contract period. When an extension of collection/delivery has been claimed under the Force Majeure clause or agreed otherwise, the date of default shall be the first business day following the expiry of the extension period.
- 23: Insolvency:**
- (a) If either party to this Contract ("the affected party")
 - (i) has a Receiver, Administrative Receiver, or Administrator appointed of any of its property or business undertaking; or
 - (ii) announces that it has ceased or will or intends to cease to trade (except where such announcement is due to a forthcoming retirement whilst honouring all existing Contracts); or
 - (iii) suspends payment of its debts or fails to pay, is unable to pay or admits or states its inability to pay, its debts as they fall due; or
 - (iv) disposes or threatens to dispose of all or a material part of its assets whether by one or a series of transactions (other than for the sole purpose of and followed by reconstruction or amalgamation made known to and approved by the other party); or
 - (v) convenes, calls or holds a meeting of its creditors or makes any arrangement, voluntary arrangement or composition with its creditors; or

- (b) or:
- (i) the directors of either party make or state an intention to make or give notice of a proposal for a voluntary arrangement under Part 1 of the Insolvency Act 1986; or
 - (ii) a Petition is presented for winding-up or administration of either party; or
 - (iii) a resolution (other than for the sole purpose of and followed by reconstruction or amalgamation of one party of which notice has been given to the other party who has approved it) is passed for the voluntary winding-up of either party; or
 - (iv) either party is dissolved; or
 - (v) a Statutory Demand in Bankruptcy is served on either party; or
 - (vi) an Interim Order under Part VIII or the Insolvency Act 1986 is applied for or made in respect of either party; or
 - (vii) a Bankruptcy Petition is presented against either party; or
 - (viii) either party suffers the levy or enforcement of any execution, distress, sequestration, detention or other process on any of its property or premises; or
 - (ix) a party being a partnership any of the above events occurs with respect to the partnership or to any partner therein;

then notwithstanding any previous arrangement with the other party for deferred payments:

- (1) the full or full remaining price for any goods delivered by the other party ("the innocent party") shall become immediately due and payable to the innocent party; and
- (2) the innocent party shall have the right upon giving written notice to the affected party without prejudice to any other rights and remedies available to the innocent party forthwith to cancel and/or suspend or to refuse to accept any further deliveries and/or to terminate the Contract at any time after becoming aware of the above circumstances/event.

Where either party relies upon any of the circumstances/events listed above ("an act of Insolvency") that party shall forthwith serve a notice of such an act of Insolvency in accordance with the Notices clause of this Contract to the other party. Where proof is available that such notice was served within two business days of the occurrence of the act of Insolvency, the Contract shall be closed out at the market price ruling on the business day following the serving of that notice. In all other circumstances the innocent party, upon learning of the occurrence of the act of Insolvency, shall have the option of closing the Contract at either the market price ruling on the first business day following it becoming aware of the act of Insolvency or at the market price ruling on the first business day after the date when the act of Insolvency occurred.

Where a contract has been so terminated, and where the property in the seed or grain has not passed, and payment for it has not been received by the innocent party then that party shall have the right to enter any land or premises where the grain or seed delivered under this contract but in which property has not passed and payment has not been received is stored or where it is reasonably believed to be stored and may repossess the same.

24: Arbitration: Any dispute (other than a claim for an unpaid debt and as provided under (b) below) arising out of this Contract shall be referred to arbitration as follows:

- (a) Unless otherwise agreed, the dispute shall be referred to arbitration in accordance with the arbitration rules of the Agricultural Industries Confederation Limited, (obtainable from the registered office of the Association), and all parties shall by making this contract be deemed to have knowledge of such rules and to have elected to be bound thereby.
- (b) If a dispute involves legal or technical problems of great complexity which are beyond the knowledge and competence of Arbitrators to resolve, or if a dispute of necessity involves a third party who is not subject to arbitration, either party before the time for commencing arbitration proceedings has lapsed may, in writing, request the other to consent to the arbitration proceedings being waived and for the dispute to be referred to ordinary litigation in the Courts. Should such consent be unreasonably withheld or no answer received within twenty eight days the party making the request shall be at liberty to commence Court proceedings leaving it to the other party, if the other party so wishes, to apply for a stay of proceedings invoking the arbitration clause. The Court will then decide whether the arbitration or the Court proceedings should continue. Time for commencing arbitration proceedings shall not run (or if started not continue to run) from the date of such request until the Court has given a final ruling (this including any appeals) as to the proper venue for the dispute to be heard, providing Court proceedings are commenced within 28 days of the receipt of any refusal or 56 days from the date of the request if no answer to it is received.

25: Time Limits for Claiming Arbitration: Arbitration shall be claimed in relation to quantity, quality, or condition within 28 consecutive days from the date of arrival of the goods at their ultimate destination in the United Kingdom and in relation to other claims (including default of fulfilment of all or part of the contract quantity) within 12 months from the last day of the contract period or 28 consecutive days from the harvest of

the crop, whichever is sooner. Subject to any special conditions relative to leave being granted to institute court proceedings contained in the arbitration rules of the Agricultural Industries Confederation Limited, the making of an award shall be a condition precedent to any right of action by either party or any person claiming under either of them, so that if arbitration proceedings regarding any claims are not instituted within the time limit prescribed all courses of action relating to that claim whether by way of arbitration or in any Courts of Law are deemed time barred and waived.

- 26: Force Majeure:** Neither Buyers nor Sellers shall be responsible for any delay in delivery of the goods or any part thereof occasioned by any Act of God, action by any Government, strike, lockout, combination of workmen, riot or civil commotion, breakdown of machinery, power failure, fire, failure of crop, fuel shortage, loss and/or detention at sea or any other contingency beyond their control, provided that the party invoking this clause despatches written notice to the other party within five business days of their knowledge of the occurrence, or not later than five business days before the beginning of the delivery period, whichever is the later. In case of resale, such information shall be passed on without delay. If delivery is delayed by more than 30 consecutive days from the end of the delivery period, the party not invoking this clause shall have the option of cancelling the delayed portion of the contract, if not already in course of transit, by giving to the other party written notice to that effect, but shall not be entitled to any compensation. A further extension of delivery of 30 days may be mutually agreed if requested by the party invoking force majeure. If delivery under this clause be prevented during this extension, the contract, or any unfulfilled part thereof shall be cancelled. Neither party shall have a claim against the other for delay or non-fulfilment under this clause, provided that the party invoking this clause shall have supplied to the other, if required, satisfactory evidence justifying the delay or non-fulfilment.
- 27: Non-Payment:** The Seller reserves the right to withhold deliveries under this contract until all and any outstanding payments under this or any other contract with him by the Buyer have been received and reserves a lien upon – and the right to sell or otherwise dispose of – all goods the subject of this contract, whether appropriated to it or not, in respect of any such payments.
- 28: Business Day / Non-Business Days:** A business day is the period between 0900 hours and 1600 hours inclusive on any day other than a non-business day. Saturdays, Sundays and officially recognized national holidays applicable throughout the United Kingdom and any days which the Agricultural Industries Confederation Ltd may declare as non-business days for specific purposes shall be deemed non-business days for the purpose of passing of notices and claims.
- 29: Contracts (Rights of Third Parties) Act 1999:** Pursuant to S.1(2)(a) of the Contracts (Rights of Third Parties) Act 1999, the parties intend that no term of the contract may be enforced by a third party.
- 30: Domicile:** This contract shall be deemed to have been made in England, and the construction, validity and performance thereof shall be governed in all aspects by English Law.