

AGRICULTURAL INDUSTRIES CONFEDERATION LIMITED
Contract Terms For The Growing Of Cereal Seed
To be read in conjunction with Seeds 6/19 (Effective from 1 February 2019)

1. Species and Field(s)

- i) The Grower shall grow under the terms of, and so as to meet the seed certification standards as set out in The Seed Marketing Regulations 2011 or any amendment thereof, and associated documentation.
- ii) It is a condition of this agreement that the agreed area/field(s) shall not be exceeded or reduced, nor any other substituted, without The Merchant's previous consent in writing, which shall not be unreasonably withheld.

2. Supply of Seed

- (a) For the purpose of sowing the Contract area The Merchant shall sell and deliver to The Grower in reasonable time for sowing the Contract area, a sufficient quantity of seed at an agreed price and the seed may be used for no other purpose than that of sowing the area specified in this Contract.
- (b) The Grower shall ensure that no seed other than that supplied by The Merchant under this Contract, is drilled as part of the crop and The Merchant will ensure that seed lot reference numbers are declared on the invoice and, wherever possible, on the delivery notes.
- (c) Except by previous agreement with The Grower, in the case of the germination percentage of pre-basic and basic seed, the percentage of germination, analytical and varietal purity of the seed for sowing shall not be less than the minimum prescribed by the appropriate Seed Marketing Regulations current as at the date of the Contract. Wherever possible, if The Grower so requests, details of the purity analysis shall be made available to him.
- (d) The Merchant shall be responsible for ensuring that the analytical and varietal purity standards of the seed, when delivered, are adequate to produce a crop of the Contract standard.
- (e) The Merchant shall comply with any requirements of the appropriate legislation, as defined in Clause 1 above, Provided that the seed delivered for sowing has complied with the provisions of (c) and (d) above, The Merchant shall not be responsible in any way for failure or loss of the crop.
- (f) This contract is additionally subject to, where incorporated, the Merchant's normal conditions of sale so far they are not consistent with the terms herein. Where there is a conflict the Merchant's normal conditions of sale will prevail.

3. Contract Price

Terms of Payment are set out in Seeds 6/19.

4. Partial Option

Where it is agreed that a fixed tonnage shall be on a firm contract, only The Merchant has the option to purchase and use the balance for seed.
In the event that the balance is not taken up, The Grower shall have the right to dispose of the crop other than for seed purposes.

5. Special Terms

Any special terms are outlined in Seeds 6/19.

6. Crop Identity Number

The Crop Identity Number shall remain the property of the Contracting Merchant.

7. History and Condition of Selected Fields

- a. The Grower shall ensure that the previous cropping is in accordance with the current rules for seed certification, as set out in Appendix A, and has made very thorough investigation to ensure that the fields do not contain impurities that may result in the rejection of the crop.
- b. The Grower shall sow the whole of the seed on the fields stated under Clause 1 in Seeds 6/19 with equipment thoroughly cleaned before use.

8. Crop Failure

- a. The Grower shall report promptly to The Merchant in all instances of failure of the crop so that when possible a resowing can be made.
- b. Subject as hereinafter mentioned The Grower shall not plough up or destroy the crop or any part of it without written consent of The Merchant which should not be unreasonably withheld.
- c. If The Grower is of the opinion that for any reason whatsoever the crop or some part of it should be ploughed up or destroyed, he shall notify The Merchant by telephone and confirm in writing by

recorded delivery of his intention to do this, and if within 5 working days after despatch of such notification The Merchant fails to object, then The Grower shall be entitled to carry out his intention.

9. Isolation

The Isolation shall be as prescribed in Appendix B.

10. Retention of Seed Labels

- a. In accordance with the rules of seed certification, The Grower shall retain labels, from each seed lot sown, in an envelope clearly marked with the Field Name or Ordnance Survey Number. The envelope and its contents shall be shown to the Field Inspector on request.
- b. Immediately after drilling, one label from each seed lot sown, waterproofed, should be securely attached to a stake in a prominent position in the crop, or attached to the gate of the field in which the crop is grown.
- c. Failure to carry out the contents of Clauses 10(a) and 10(b) above may result in the crop being ineligible for certification.

11. Weed Control

The Grower shall, at his own expense, take every practical measure to ensure the eradication of those weeds whose seed might contaminate the harvested seed crop, and in particular to eradicate wild oats, cleavers, sterile brome and other injurious weeds.

12. Growth Regulators and Other Chemicals

Before using any chemical on the growing crop or on the harvested grain which might jeopardise approval and certification, The Grower shall first seek and receive in writing the approval of The Merchant. Provided such chemical has approval under the Control of Pesticides Regulations 1986, (or any amendment thereof) and The Grower undertakes that the manufacturer's instructions are strictly observed, and there is no available current evidence that it has a deleterious effect on seed crops, such permission shall not be unreasonably withheld. However, the application of any such chemicals and their effect on the final seed crop shall remain the responsibility of The Grower.

13. Access to Land and Premises

The Grower shall on reasonable notice:

- a. Permit The Merchant or his representative to enter upon The Grower's land or premises to inspect the sowing, growing, cultivation, harvesting and conditioning of the seed and to draw samples.
- b. Permit Official Representatives of the Certifying Authority to enter upon The Grower's land or premises to carry out their responsibilities as laid down in the relevant legislation.

14. Roguing

If required by The Merchant, The Grower shall undertake to rogue the crop, or, if The Merchant so desires, shall permit The Merchant's representatives to do so, especially in relation to varietal purity. When roguing has been carried out The Grower shall not harvest the crop without giving The Merchant sufficient warning to permit re-inspection.

15. Field Inspection

If the crop fails to meet the certification standards on field inspection, after reasonable opportunity has been given for roguing to take place, this Contract shall be terminated forthwith.

16. Harvesting the Seed Crop

- a. The whole of the crop produced shall be properly harvested according to the accepted practices of seed growing.
- b. The Grower shall ensure that the combine harvester, containers, bags, each and every bulk vehicle and/or bins used and any other equipment used for handling the crop are thoroughly clean before use.
- c. The permission of The Merchant, which shall not be unreasonably withheld, shall be obtained if any of the above crops are to be harvested by contractors and/or any other harvesting equipment not under The Grower's direct control.

17. Conditioning and Storage

- a. The Grower must ensure that the seed does not at any stage, whilst in his care and/or possession, come into contact directly or indirectly with any substance which may have deleterious effect on the seed its ability to germinate properly or its subsequent growth.
- b. The Grower shall ensure that if the seed crop is cleaned, dried or stored by him, all pits, elevators, augers, conveyors, cleaning and drying plant, bulk bins, sacks and any other equipment are thoroughly cleaned before use. The Grower shall take all reasonable care to prevent contamination of the goods. The seed crop shall be dried according to the accepted practices and maximum temperatures for seed production.
- c. If The Grower fails to condition his harvested crop to the standards required in Clause 20 of this Contract by the agreed date, so that The Merchant is prevented from marketing the produce for seed purposes, The Merchant shall have the right to reject the crop.

- d. As the goods to which this Contract refers may, in part or in whole, be used for human consumption or incorporation into animal feedingsuffs, all loads must meet the quality, pesticide residues and salmonella clauses of the AIC Grain and Pulses Contract No.1/19 or its successors. A current copy of the AIC Contract can be found on the member part of the AIC, NFU and NFUS websites.

18. Identification of Seed Crop

The Grower shall ensure that each bulk container or bag, whilst in store and when loaded onto transport, is clearly labelled with the variety and species of the crop, The Grower's name and the Field Name or Ordnance Survey Number, and for this purpose he shall use temporary tags or labels which the merchant shall supply. The Grower or his agent, if required, shall complete and hand to the driver of the vehicle collecting the seed a form supplied by the Merchant, giving details specified in the previous sentence.

19. Sampling

- a. Before delivery of the bulk of the seed crop, and not later than the agreed date, The Grower shall take and submit to The Merchant a separate representative sample of approximately 2 kg of the harvested seed taken from each part of the seed as stored separately.
- b. The Merchant shall have the sample tested to determine moisture content, purity and germination and shall notify The Grower within 14 days of the results of these tests.
- c. If the test results indicate that the seed crop cannot meet the Contract standards, or if the sample contains ergot, injurious weeds, or mature seeds of other weeds, or cereal species, which in the opinion of The Merchant normal cleaning processes will not bring the sample up to the certification standards specified in Clause 1, then The Merchant may reject the crop for seed in situ.
- d. If The Grower wishes to dispute the results of the tests carried out above, he shall notify The Merchant in writing within 14 consecutive days from notification.

20. Quality Standards

Each and every load delivered by The Grower to The Merchant, or collected by the latter, shall meet the following standards:

- a. Germination shall not be less than the agreed level.
- b. The content of ergot, injurious weed seed, other weed seed, other cereal seed, and inert matter, shall not be such that, in the opinion of The Merchant, normal cleaning processes cannot bring the delivery to the certification standards specified in Clause 1.
- c. Moisture content to be measured according to ISO 712 standard shall not exceed the agreed level.
- d. The seed shall be of good colour and appearance consistent with the season and also free from infestation.
- e. **Seed-borne diseases.** The seed shall be free of bunt and shall comply with the disease standards laid down in the Seeds Regulations currently in force.
- f. Any additional standards are set out in Seeds 6/19.

21. Drying

If the moisture content of the seed crop, as collected or delivered, exceeds the figure specified in Clause 20(c) of Seeds 6/19, The Merchant may have the option to accept it, but may dry the seed, and in such case the cost of drying to the Contract level, with the resultant loss in weight, shall be charged to The Grower's account. Risk shall pass on collection/delivery. Property in the seed crop shall not pass to The Merchant until such time as all tests have been carried out on the dried sample and show the crop to comply with the standards laid down in Clause 20 of Seeds 6/19 (Effective from 1 February 2019), unless such failure is due to The Merchant's negligence. Sealed samples from the grain should be taken before and after drying and retained.

22. Delivery

The seed crop (less any quantity not reaching the Contract standards) shall be delivered to The Merchant in bulk (or in clean containers or clean sacks, supplied by The Merchant at The Grower's option) during the agreed period free of charge on lorry on hard standing at the farm. The Merchant shall give reasonable notice of no less than 24 hours requiring delivery; The Grower shall not withhold delivery beyond 5 working days following such notice.

If after the final date stipulated in Clause 22 of Seeds 6/19 The Merchant is unable to accept delivery, The Grower shall continue to maintain the seed in proper condition, but The Merchant shall be liable for storage charges.

Where The Merchant is responsible for providing transport for collecting the goods, he shall ensure its suitability. If The Grower, after inspection of the vehicle, considers it to be unsuitable he can refuse to load and inform The Merchant by telephone. In the case of unreasonable delay in loading or discharge of vehicles, collecting or delivering the goods, The Grower (if the delay is at the point of loading), or The Merchant (if the delay is at the point of discharge) shall be liable for the loss that results from the delay, except that where delay in loading is caused by the vehicle being dirty on arrival and having to be cleaned, any loss resulting shall be payable by the party responsible for supplying the vehicle.

23. Rejection/Claims

- a. If the seed crop, as delivered, fails to meet the quality standards specified in Clause 20, The Merchant is entitled to reject it. For seed crop which The Merchant is entitled to reject under this clause, but which he decides to accept, the price payable to The Grower shall be a reduced but reasonable sum, decided by agreement between the parties, or, failing agreement, by arbitration under Clause 32. The Grower shall not offer or sell to a third party any rejected crop or rejected part of a crop for seed purposes.
- b. Where a load of seed is rejected, The Grower shall, where applicable, be responsible for all haulage and demurrage charges.
- c. If, after The Merchant has carried out at least two tests on separately drawn samples (which shall be completed by the agreed date), the crop has failed to meet the terms and conditions of the Contract, The Grower may, within 7 consecutive days, at his expense, have a further sample drawn in the presence of The Merchant's representative by an agreed official or licensed sampler and submit this to the OSTs, (England, Scotland or Northern Ireland), and the results from that body shall be final.
- d. The Merchant shall notify The Grower, as soon as possible, the reason for any rejections and/or claim.

24. Product Liability

The Grower undertakes to ensure that all seed delivered to The Merchant's written order or, if oral, to be confirmed in writing, complies as to variety and as to all other respects with the requirements of that order and emanates from the field or fields specified for that variety of seed in Clause 1 hereof. The Sale of Goods Act 1979 (as amended) applies to this Contract. The Merchant reserves the right to claim against the Grower for any loss or damage which may result from, or any claim made against The Merchant as a consequence of, failure to comply in all respects with this requirement.

The Grower is advised to have insurance to cover claims from The Merchant for product liability e.g. delivery of the wrong variety, or any other claim for which he may be held legally liable.

25. Force Majeure

The Grower shall not be responsible for delay in delivery of the seed crop or any part thereof, nor The Merchant for delay in accepting delivery, or collecting the goods, or any part thereof, occasioned by any act of God, action by Government, strike (including dock and/or shipping strikes within the United Kingdom), lockout, combination of workmen, breakdown of machinery, power failure, or fire, provided that the party invoking this clause dispatches written notice to reach the other party to the Contract within 5 business days of the occurrence, or where The Merchant had already given notice to The Grower requiring delivery in accordance with Clause 22, as soon as possible after the defaulting party became aware of the occurrence. For the avoidance of doubt, neither party shall have the right to rely on, as Force Majeure, any strike which is limited to the employees of that party or its subcontractors, or any delay or default of that party's subcontractors in the performance of their obligations. Should any of the seed crop be rendered unfit for delivery by reason of any of the above acts, the Contract so far as it relates to such seed, shall be deemed to be discharged.

26. Merchant's Duties

- a. The Merchant shall be responsible for entering the crop for certification and for fulfilling all his other duties according to the category and grade of the seed crop, and in accordance with the relevant rules for seed certification.
- b. The Merchant shall carry out, by means of an official and/or a licensed inspector, field inspections of the growing crop in accordance with the category and grade of the seed crop, as laid down under seed certification.
- c. The Merchant shall supply The Grower with sufficient temporary tags, labels and documents, duly completed with the appropriate information in accordance with the requirements of seed certification, for use by The Grower, to identify the harvested produce as laid down in Clause 18.
- d. The Merchant shall inform The Grower, in writing, of the weight of each consignment within 5 business days of delivery. Weighbridge charges shall be borne by The Grower.

27. Records

The Grower shall ensure that detailed records are kept of all species/varieties grown and stored on The Grower's farm.

28. Protected Varieties

When this Contract relates to seed of a variety protected by Plant Breeders' Rights under the Plant Varieties and Seeds Act 1964, the Plant Varieties Act 1997, or any amendments thereof, The Grower, upon reasonable notice, shall permit the Breeder, or any duly appointed Agent of the Breeder, (upon giving notice to the Contracting Merchant) accompanied by The Merchant, or his representative, to enter upon The Grower's land to inspect the sowing, growing and cultivation of the crops and inspect records relating to the seed crop.

29. Property and Risk

Risk shall pass on delivery. Property in such part of the crop as shall reach the prescribed quality at time of delivery shall pass to The Merchant when the seed crop is delivered to him or to his order. Should delivery be taken by The Merchant of the seed crop before completion of the tests prescribed under the Seed Certification Standards defined in Clause 1 and the Seeds Regulations current at the date of the Contract, property shall not pass until it has been established that the crop has reached the required standards, and until such time The Merchant reserves the right to reject the produce in question, or to accept it at a price agreed under the terms of Clause 23 of the Contract.

30. Non Payment

Either party reserves the right to withhold deliveries under this Contract until all and any outstanding payments not in dispute under this or any other Contract with him by the other party have been received. The invoking party also reserves a lien upon, and the right to sell or otherwise dispose of all the goods the subject of this Contract, whether appropriated to it or not, in respect of any such outstanding payments, subject to having given to the other party 5 business days prior notice in writing that payment shall be remitted.

31. Insolvency If either party to this Contract ("the Affected Party"):

has a Receiver, Administrative Receiver or Administrator appointed in respect of any of its property or business undertakings;
or announces that it has ceased, or intends to cease to trade (except where such announcement is due to a forthcoming retirement whilst honouring all existing contracts);
or suspends or is about to suspend, payment of its debts or fails to pay, or is unable to pay or admits or states its inability to pay its debts as they fall due;
or disposes of 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 convenes, calls or holds a meeting of its creditors or makes or proposes any arrangement or composition with its creditors;
or states an intention to make or give notice of a voluntary arrangement under Part 1 of the Insolvency Act 1986;
or has a resolution or petition (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) passed for the winding up or voluntary winding up or liquidation;
or is dissolved, or applies for an Interim Order under Part VIII of the Insolvency Act 1986;
or a Bankruptcy Petition or a Statutory Demand in bankruptcy is presented or served; or suffers to the levy or enforcement of any execution, distress, sequestration, detention or other process on any of its property or premises;
or if a party being a partnership, any of the above events occurs with respect to the partnership or to any partner therein (hereafter called "Act of Insolvency")
then, notwithstanding any previous arrangement between the parties for deferred payments, the full or full remaining price for any goods delivered shall become immediately due and payable by the party committing an Act of Insolvency.

The party not committing an Act of Insolvency ("the Innocent Party") shall have the right, upon giving written notice to the other party, without prejudice to any other rights and remedies available to the Innocent party, to cancel and/or suspend and/or to refuse to make or accept any further deliveries and to close out and settle the Contract as detailed below.

The Affected Party shall serve written notice of the relevant Act of Insolvency by fax, e-mail or other electronic means or by letter sent by means of a recorded delivery to the Innocent Party. Where proof is available that such notice was served within two business days of the occurrence of the Act of Insolvency, the Innocent Party shall have the right to close out the Contract which shall be settled at the market price on the first business day following the occurrence of the Act of Insolvency.

In all other circumstances, the Innocent Party, upon learning of the occurrence of the Act of Insolvency shall have the right to close out and settle the Contract at either:

- (a) the market price on the first business day following the Innocent Party becoming aware of the Act of Insolvency, or
- (b) at the market price on the first business day following the occurrence of the Act of Insolvency.

32. 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 Confederation and/or <https://www.agindustries.org.uk/legal/arbitration> 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 28 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.

33. Time Limits for Claiming Arbitration

All claims for arbitration shall be made within 12 months of the harvest of the crop. Where the contract giving rise to the arbitration is one of a series of contracts a reasonable extension of time to commence arbitration proceedings will be allowed to those in the 'string'. In the case of disagreement as to what constitutes 'a reasonable extension' this will be referred to the arbitrator/s as a preliminary issue. Subject to paragraph 21 (b): i) the making of an award should be a condition precedent to any Court action, excepting that which is expressly referred to in Clause 44(3) of the Arbitration Act 1986 (or any amendment thereof) by either party or any person claiming under either of them and ii) in the event that arbitration is not claimed within the time limits prescribed above all courses of action relating to the claim, whether by way of arbitration or in any Courts of Law, are deemed waived and shall be barred absolutely unless the Arbitration Tribunal shall in its absolute discretion determine otherwise.

34. 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 recognised national holidays applicable through the United Kingdom and any days which the Agricultural Industries Confederation Limited may declare as non-business days for specific purposes shall be deemed non-business days for the purpose of passing of notices and claims.

35. Contracts (Rights of Third Parties) Act 1999

Pursuant to S.1(1)(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.

36. 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.

Previous Cropping

a. **All Cereals (except rye)**

To Produce Basic Seed

The minimum requirement is for no other variety of the same species to have been grown in the previous year.

Best practice requirements are for no other cereal species and no other varieties of the same species in the previous 2 years.

To Produce Certified 1st & 2nd Generation (Minimum and Higher Voluntary)

The minimum requirement is for no other variety of the same species to have been grown in the previous year.

Best practice requirements are for no other varieties of the same species in the previous 2 years and no other cereal species in the previous year.

b. **Rye**

To produce Basic and Certified seed the minimum previous cropping requirements are that no other variety of the same species may have been grown in the previous year.

Best practice requirements are for no other variety of rye or triticale to have been grown in the previous year.

Isolation

a. Cereals

Minimum isolation requirements are a physical barrier (e.g. a continuous hedge, ditch, fence or road); 2 metres of a non-cereal crop or 2 metres of clean fallow ground between the crop and another cereal crop.

It is recommended that crops of a 2-row barley for the production of Basic and C1 seed should be isolated by at least 50 metres from any crop of a 6-row barley variety and vice-versa. Similarly seed crops of different 6-row varieties should be mutually isolated by the same distance. Crops of wheat and barley should be isolated by at least 50 metres from any source of infection from loose smut. In the case of crops to produce a hybrid of barley, wheat or self-pollinating triticale, the female component of the crop must be at least 25 metres from a crop of any other variety of the same species, except from a crop of the male component.

b. Rye

The minimum isolation requirements from neighbouring crops of other varieties of rye, and from crops of the same variety that do not comply with the conditions for purity for the promotion of seed of the same category will be:

<i>Crops to produce Basic seed</i>	<i>300 metres</i>
<i>Crops to produce Certified seed</i>	<i>250 metres</i>
<i>Hybrid Crops using male sterility to produce Basic Seed.....</i>	<i>1,000 metres</i>
<i>Hybrid Crops not using male sterility to produce Basic Seed ...</i>	<i>600 metres</i>
<i>Hybrid Crops for the production of Certified Seed</i>	<i>500 metres</i>

These distances need not to be observed if there is adequate protection against undesirable pollination. The minimum isolation requirements for all categories of seed are a physical barrier (e.g. a continuous hedge, ditch, fence or road); 2 metres of a non-cereal crop, or 2 metres of clean fallow ground between the crop and another cereal crop.

c. Triticale

The minimum distances from neighbouring crops of other triticale varieties will be:

<i>Self-pollinating crops to produce Basic seed</i>	<i>50 metres</i>
<i>Self-pollinating crops to produce Certified seed</i>	<i>20 metres</i>

These distances must be observed unless the Certifying Authority has advised the applicant that there is adequate protection against any undesirable pollen. Additionally, the minimum isolation requirements are a physical barrier (e.g. a continuous hedge, ditch, fence or road); 2 metres of a non-cereal crop, or 2 metres of clean fallow ground between the crop and another cereal crop.

IN WITNESS whereof the parties hereto have set their hands the date and year before written.

For and on behalf of

For and on behalf of

.....
(signature of The Grower)

.....
(signature of The Merchant)