



PROCAM
AGRONOMY THAT DELIVERS™

CONDITIONS OF SALE
October 2016

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1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following expressions will have the following meanings unless inconsistent with the context:

“Buyer”	the person(s), firm or company who purchases the Goods and/or Services from the Company
“Business Day”	any day other than a Saturday or Sunday or a public or bank holiday in England
“Company”	ProCam CP Limited (Company Number: 01420577)
“Conditions”	the terms and conditions set out in this document as amended from time to time in accordance with Condition 2.5
“Confidential Information”	all information in respect of the business of the Company including, but not limited to, know-how or other matters connected with the Goods or Services, and information concerning the Company’s relationships with actual or potential suppliers and customers and the needs and requirements of the Company and of such persons and any other information which might reasonably be considered confidential or which, if disclosed, would be likely to cause harm to the Company
“Contract”	any contract between the Company and the Buyer for the sale and purchase of the Goods or supply of the Services in accordance with these Conditions
“Force Majeure”	any cause preventing the Company from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable contemplation and control of the Company including, without limitation, strikes, lockouts or other industrial disputes (whether involving the work force of the Company or otherwise), protest, act of God, war, or national emergency, an act of terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, explosion, flood, storm, epidemic or default of the Company’s or sub-contractors
“Goods”	any goods (including Seeds) set out in an Order
“Goods Specification”	any specification for the Goods that is agreed in writing by the Buyer and the Company
“Intellectual Property Rights”	all intellectual and industrial property rights including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions
“Order”	the Buyer’s order (whether submitted by the Buyer or on its behalf) for the supply of Goods and/or Services, as set out in the Buyer’s purchase order, completed order form or acceptance of the Company’s quotation or proposal, as the case may be
“Seed”	any seeds which the Company supplies to the Buyer
“Services”	the services supplied by the Company to the Buyer as set out in the Service Specification
“Service Specification”	the description or specification for the Services agreed in writing by the Company and the Buyer.

1.2 The headings in these Conditions are for convenience only and will not affect their construction or interpretation.

2. FORMATION

- 2.1 Each Order (whether verbal or written) constitutes an offer by the Buyer to purchase Goods or Services upon these Conditions. The Contract is formed when the Order is accepted by the Company either verbally or in writing.
- 2.2 Any quotation is valid for a period of 30 days only from its date, provided the Company has not previously withdrawn it. No quotation by the Company shall constitute an offer.
- 2.3 Acceptance of delivery of the Goods or commencement of the performance of the Services will be deemed to be the Buyer’s acceptance of these Conditions.
- 2.4 The Buyer may not cancel the Contract. The Company may cancel the Contract at any time prior to delivery. Following acceptance of an Order the Company may carry out credit checks in relation to

the Buyer. The Contract is conditional on the receipt of satisfactory results of the credit checks. If the results of any credit checks are not in any way satisfactory to the Company (at its discretion), the Company may cancel the Contract. Any such cancellation of a Contract by the Company shall not give any liability to the Company and still not entitle the Buyer to receive or claim any compensation or damages.

- 2.5 Save as set out in these Conditions, no variations to a Contract shall be binding on the Company unless made in writing and signed by a director of the Company. No employee, representative or agent of the Company has any authority to make or give any representation or warranty whatsoever in relation to either the Goods or the Services. Any representations about the Goods or Services shall have no effect unless expressly agreed in writing and signed by a director of the Company.
- 2.6 The Buyer appoints as agent any person acting as an agronomist for or on behalf of the Company (whether or not involved in delivering the Services) to deliver Orders to the Company and amend any Order delivered by the Buyer.
- 2.7 The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.

3. THE GOODS AND SERVICES

- 3.1 The quantity and description of the Goods or Services will be as set out in the Goods Specification and/or the Services Specification.
- 3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company (or the manufacturer of the Goods) and any descriptions or illustrations contained in the Company’s or a manufacturer’s catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods or Services represented by or described in them. They will not form part of the Contract and this is not a sale by sample.
- 3.3 The Company may make any changes to the specification, design, materials or finishes of the Goods or provision of the Services which:
 - 3.3.1 are required to conform with any applicable safety or other statutory or regulatory requirements or any changes to such requirements; or
 - 3.3.2 do not materially affect their quality or performance.
- 3.4 As Seeds are growing organisms and their growth is subject to pests, disease and climatic conditions, all sales of Seeds are subject to safe harvest. In the event of market shortages or the failure of the Company’s to deliver to it, the Company reserves the right to apportion such supplies as become available among its Buyers in such amounts at its discretion. The Company shall not be required to purchase quantities of Seed from alternative sources of supply in order to fulfil its obligations under any Contract.
- 3.5 Where Seeds are imported by the Company for the purposes of any Contract, their sale by the Company is subject to supplies being made available to the Company by its normal Company with whom a contract for their supply has been placed. If there is a failure of such supplies from abroad and the Seeds are not replaceable from other sources at a price no greater than under the Contract, the Company shall give notice of such failure to the Buyer and the Buyer shall be entitled to cancel the Contract. The Company shall have no liability to the Buyer for any such cancellation other than to repay any payment made by the Buyer in respect of such Seed.
- 3.6 The Company reserves the right to substitute an alternative variety of Seed if the variety of Seed ordered is not available, provided that the substituted variety is of similar functionality in terms of quality and performance and provided further that if the substituted variety of Seed is not acceptable to the Buyer, the Buyer must return it unopened to the Company within 14 Business Days of receipt when any price paid by the Buyer together with any return transportation costs will be refunded in full and the Company shall have no further liability to the Buyer.
- 3.7 The price of any variety which becomes the subject of a grant of breeders’ rights under the Plant Varieties and Seed Act 1964 (as amended) will be adjusted to include the cost of any royalty payable to the owner of the right. If in the case of a variety which is already the subject of plant breeders’ rights there is any change of the rate of royalty payable to the owner of the rights the price will be adjusted accordingly.

4. BUYER OBLIGATIONS

4.1 The Buyer shall:

4.1.1 notwithstanding that an Order may have been placed by any agent or on its behalf, ensure that the terms of the Order and the Goods Specification and/or Services Specification are complete and accurate;

4.1.2 co-operate with the Company in all matters relating to the Services;

4.1.3 provide the Company, its employees, agents, consultants and subcontractors, with access to the Buyer's premises and other facilities as reasonably required by the Company to provide the Services (including any relevant security information);

4.1.4 provide the Company with such information and materials as the Company may reasonably require to supply the Services, and ensure that such information is accurate in all material respects, including, but not limited to:

4.1.4.1 indicating the areas of land to be treated with fertiliser or other agrochemicals immediately prior to the commencement of the application by the Company, its employees, agents or sub-contractors and any matters known to the Buyer calling for special care or attention when applying such fertilisers or agrochemicals in that area;

4.1.4.2 information and directions relating to health and safety that the Company, its employees, agents or sub-contractors may need to know in order to safely supply the Goods or deliver the Services;

4.1.5 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and

4.1.6 keep and maintain all materials, equipment, documents, containers, packaging and other property of the Company ("Company Materials") at the Buyer's premises in safe custody at its own risk, maintain the Company Materials in good condition until returned to the Company, and not dispose of or use the Company Materials other than in accordance with the Company's written instructions or authorisation.

4.2 If the Company's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Buyer or failure by the Buyer to perform any relevant obligation ("Buyer Default"):

4.2.1 the Company shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Buyer remedies the Buyer Default, and to rely on the Buyer Default to relieve it from the performance of any of its obligations to the extent the Buyer Default prevents or delays the Company's performance of any of its obligations;

4.2.2 the Company shall not be liable for any costs or losses sustained or incurred by the Buyer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this Condition 4.2; and

4.2.3 the Buyer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Buyer Default.

4.3 All verbal or written (including electronic format) information provided by the Company, its employees, agents or sub-contractors relating 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 variations in local or climatic conditions can render such information inaccurate. The Buyer may not rely on any such information and in relying on any such information, the Buyer does so at its own risk and the Company shall have no liability to the Buyer for such reliance.

5. PRICE

5.1 The price for the Goods and Services will be the price set out in the Order or as set out in the Company's price list prevailing on the date of the Order (available on request) and is exclusive of any costs of packaging, insurance and carriage of the Goods, which shall be paid by the Buyer when it pays for the Goods.

5.2 All prices are exclusive of any value added tax or other applicable sales tax or duty which will be added to the sum in question.

5.3 The Company will be entitled to increase the price of the Goods or Services by giving notice to the Buyer at any time before delivery of the Goods or Services, to reflect any increase in the cost of the Goods to the Company that is due to:

5.3.1 any factor beyond the control of the Company (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other costs);

5.3.2 to comply with any applicable safety or other statutory or regulatory requirements or any changes to such requirements;

5.3.3 any request by the Buyer to change quantities or types of Goods ordered, the Goods Specification or Services Specification or any delivery date(s); or

5.3.4 any delay caused by any instructions of the Buyer in respect of the Goods or Services or failure of the Buyer to give the Company adequate or accurate information or instructions in respect of the Goods or Services.

6. PAYMENT

6.1 The Company may invoice the Buyer for the Goods on or at any time after delivery and for the Services on or at any time after performance commences and payment is due in pounds sterling by the 15th day of the month following the month in which the invoice was issued.

6.2 Time for payment will be of the essence.

6.3 No payment will be deemed to have been received until the Company has received cleared funds. The Company reserves the right to require payment in full before the Goods are delivered or Services performed.

6.4 All sums payable to the Company under the Contract will become due immediately upon termination of the Contract.

6.5 All payments to be made by the Buyer under the Contract will be made in full without any set-off, restriction or condition and without any deduction or withholding for or on account of any counterclaim or any present or future taxes, levies, duties, charges, fees, deductions or withholdings of any nature, unless the Buyer is required by law to make any such deduction or withholding.

6.6 The Company may appropriate any payment made by the Buyer to the Company to such of the invoices for the Goods or Services as the Company thinks fit, despite any purported appropriation by the Buyer.

6.7 Where an invoice of the Company specifies a credit charge, the Buyer shall not be required to pay such credit charge if the invoice is paid by the due date as specified in Condition 6.1.

6.8 If any sum payable under the Contract is not paid when due then, without prejudice to the Company's other rights under the Contract, that sum will bear interest from the due date until payment is made in full, both before and after any judgment, at 8% per annum above the then current base rate of HSBC Bank plc and the Company will be entitled to suspend deliveries or further deliveries of the Goods or performance of the Services until the outstanding amount has been received by the Company from the Buyer. The Company will endeavour to give notice to the Buyer that it intends to suspend the delivery of Goods or the performance of Services, but shall not be obliged to do so and failure to give such notice shall not prejudice the Company's rights under this Condition 6.8.

6.9 Any amount paid to the Company by a Buyer by credit card shall incur a surcharge of 1.5% of the amount of that payment.

7. INSTALMENTS

7.1 The Company may deliver the Goods by separate instalments or perform any Services in stages. Each separate instalment or stage will be invoiced and paid for in accordance with the provisions of the Contract.

7.2 Each instalment or stage will be a separate Contract and no defect or delay in delivery or the cancellation or termination of any one instalment or stage will entitle the Buyer to repudiate or cancel any other instalment or stage.

8. DELIVERY

8.1 Goods will be delivered to the address on the UK mainland set out in the Order or, with the consent of the Company, Goods may be collected from the Company's premises. The Services will be performed at the place specified in the Order.

8.2 The Buyer will provide at its expense adequate and appropriate equipment and manual labour for off-loading the Goods at and provide suitable access to the point of delivery. Delivery shall be deemed to have taken place immediately upon off-loading of the Goods at the point of delivery or upon the loading of the Goods if collected.

8.3 The Company shall use its reasonable endeavours to meet any performance dates for the Services or delivery dates for Goods specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services or the delivery of the Goods.

8.4 Any delay in delivery or performance will not entitle the Buyer to cancel the order unless and until the Buyer has given 25 Business Days written notice to the Company requiring the delivery of the Goods or performance of the Services such notice to be given within 10 Business Days of the last day of the time period for delivery of the Goods or performance of the Services set out in the Contract and the Company

has not fulfilled the delivery or performance within that 25 Business Day period. If the Buyer cancels the order in accordance with this Condition 8.4 then:

8.4.1 the Company will refund to the Buyer any sums which the Buyer has paid to the Company in respect of that Order or part of the Order which has been cancelled; and

8.4.2 the Company will refund to the Buyer the excess (if any) over the price of the Goods or the Services of similar goods or services (in the cheapest market) to replace those not delivered or performed; and

8.4.3 the Buyer will be under no liability to make any further payments under Condition 5.1 in respect of that Order or part of the Order which has been cancelled.

8.5 If the Buyer fails to take delivery of any of the Goods when they are ready for delivery or collection or to provide the instructions, documents, licences or authorisations required to enable the Goods to be delivered (except solely on account of the Company's default), the Goods will be deemed to have been delivered on the due date and (without prejudice to its other rights) the Company may:

8.5.1 store or arrange for storage of the Goods until actual delivery or sale in accordance with Condition 8.5.2 and charge the Buyer for all related costs and expenses (including, without limitation, storage and insurance); and/or

8.5.2 following written notice to the Buyer, sell any of the Goods at the best price reasonably obtainable in the circumstances and charge the Buyer for any shortfall below the price under the Contract or account to the Buyer for any excess achieved over the price under the Contract, in both cases having taken into account any charges related to the sale.

8.6 The Company may deliver to the Buyer Goods up to 5% more or 5% less than the quantity of Goods ordered without any adjustment in the price and the Buyer shall not be entitled to object or reject the Goods by reason of such surplus or shortfall. The quantity of any consignment of Goods as recorded by the Company on despatch from the Company's place of business shall be deemed to be the quantity received by the Buyer on delivery.

8.7 Where the Buyer collects Goods from the Company pursuant to Condition 8.1 and at all times following collection or delivery of the Goods, the Buyer will comply with all legislation and regulations for the time being in force relating to the transportation and storage of the Goods, including without limit the Carriage of Dangerous Goods and Use of Pressure Equipment Regulations 2004 (as may be amended or replaced).

8.8 Notwithstanding any other provision of these Conditions, if the Buyer, its employees, agents or representatives are not present when the Goods are off-loaded by the Company at the point of delivery then:

8.8.1 the Goods shall be off-loaded and left in such a place at the point of delivery as the Company may at its discretion decide;

8.8.2 delivery of the Goods shall be deemed to have been made at the time of such off-loading; and

8.8.3 the Company shall not be responsible or liable for ensuring the safe storage or the security of the Goods after such delivery.

9. RISK / OWNERSHIP

9.1 Risk of damage to or loss of the Goods will pass to the Buyer on delivery (or deemed delivery in accordance with Condition 8.5 or 8.8).

9.2 Ownership of the Goods will not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

9.2.1 the Goods; and

9.2.2 all other sums which are or which become due to the Company from the Buyer on any account.

9.3 Until ownership of the Goods has passed to the Buyer, the Buyer must:

9.3.1 hold the Goods on a fiduciary basis as the Company's bailee;

9.3.2 store the Goods (at no cost to the Company) separately from all other Goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;

9.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

9.3.4 not pledge the Goods or in any way charge by way of security the Goods for any indebtedness; and

9.3.5 maintain the Goods in satisfactory condition insured on the Company's behalf for their full value against all risks to the reasonable satisfaction of the Company and will whenever

requested by the Company produce a copy of the relevant policy of insurance and evidence of the payment of the policy premium.

9.4 The Buyer may use the Goods before ownership has passed to it in the ordinary course of the Buyer's business.

9.5 The Buyer's right to possession of the Goods will terminate immediately if any of the circumstances set out in Condition 14.1 occur, whether or not the Company has terminated the Contract.

9.6 The Company will be entitled to recover payment for the Goods notwithstanding that title in any of the Goods has not passed from the Company.

9.7 The Buyer grants the Company, its agents and employees an irrevocable licence to enter any premises of the Buyer:

9.7.1 to deliver the Goods;

9.7.2 at any time until ownership passes in accordance with Condition 9.2, to inspect the Goods; or

9.7.3 at any time where the Buyer's right to possession has terminated, to recover the Goods.

9.8 Where the Company is unable to determine whether any Goods are those in respect of which the Buyer's right to possession has terminated, the Buyer will be deemed to have sold all Goods in the order in which they were invoiced to the Buyer.

9.9 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this Condition 9 will remain in effect.

10. WARRANTY FOR GOODS AND SERVICES

10.1 The Buyer acknowledges that the Company is not the manufacturer of any Goods supplied under a Contract and so cannot give any warranty of quality. The Company will use its reasonable endeavours to pass on to the Buyer the benefit of any guarantee or warranty which the Company receives from the manufacturer of the Goods.

10.2 The Company warrants that on delivery the Goods shall:

10.2.1 conform in all material respects with their description and any applicable Goods Specification;

10.2.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and

10.2.3 be fit for the purpose held out by the Company.

10.3 Subject to Condition 10.4, if:

10.3.1 the Buyer gives notice in accordance with Condition 18.6 within 14 days of delivery or, if the defect is not apparent on reasonable inspection then within 14 days of becoming aware of the failure to comply and in any event no later than 12 months from the date of delivery, that some or all of the Goods do not comply with the warranty in Condition 10.2;

10.3.2 the Company is given a reasonable opportunity of examining such Goods; and

10.3.3 the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Company's cost, the Company shall, at its option, replace the defective Goods or refund the price of the defective Goods in full.

10.4 The Company shall not be liable for the failure for the Goods or Services to comply with the warranty in Condition 10.1 where:

10.4.1 the Buyer makes any further use of such Goods after giving a notice in accordance with Condition 10.3;

10.4.2 the Goods have been improperly altered or have been subject to misuse;

10.4.3 any instructions of the Company or the manufacturer relating to the use or storage of the Goods have not been complied with in all respects;

10.4.4 the Buyer has failed to comply with all regulatory requirements, codes of practice, directions, warnings or notices as to the use or application of any of the Goods or has failed to maintain proper records relating to the storage, use or application of any of the Goods; or

10.4.5 in the case of Seed, where the Seed was not sown on properly prepared ground, correctly treated at all times and subject only to conditions that were likely to produce a favourable crop.

10.5 The Buyer acknowledges that diseases of plants can be transmitted by wind, insects, animals or human agencies and may be seed-borne or soil-borne. The Company believes that the Goods are free from latent defects, but it is not a condition of the Contract nor does the Company warrant that any Goods shall be free from such defects or free from

any foreign body or contaminant. The Company shall not be liable for any defects in the Goods which could not reasonably have been discovered by the Company prior to delivery or for any defects in the Goods existing or occurring without any negligence on the part of the Company.

- 10.6 The Services will be carried out by the Company with all reasonable skill and care and on the basis of the information available to the Company at the time such Services are provided.
- 10.7 Except as expressly provided for in this Condition 10 the Company excludes to the fullest extent permissible in law, all conditions, warranties and stipulations express or implied, statutory, customary or otherwise which, but for such exclusion would or might subsist in favour of the Buyer.
- 10.8 Where the Buyer requests any Service which involves chemicals being applied to Seeds, the Company does not warrant the effectiveness of such treatment and cannot accept any liability, loss or damage which results from such treatment other than through the Company's failure to carry out such Service in accordance with Condition 10.6.
- 10.9 Any Seeds supplied by the Company are sold for the production of consumer crops only and the Company does not warrant nor accept any responsibility or liability for any seed produced by the Buyer through reproduction.
- 10.10 Any Seed supplied by the Company are bred from parent components which, so far as the Company is aware, have not been genetically modified. The methods used in the breeding development and production of these varieties are aimed at producing pure seed of the highest quality complying with all the regulatory demands to avoid adventitious presence of genetically modified organisms. Seed production is carried out in open fields in natural conditions in which there is free circulation of pollen. All Seed has been subjected to the appropriate sampling and testing to determine that such Seed complies with relevant legislation and that there has been no determination of genetically modified organisms present. The Company do not warrant that any Seed is free of genetically modified organisms and shall have no liability to the Buyer arising from the adventitious presence of genetically modified material in any Seed.
- 10.11 For the avoidance of doubt, the Services do not include, and no employee, agent or representative of the Company is authorised to give on the Company's behalf, any advice concerning (i) the choice of crop proposed to be grown by the Buyer where such choice is connected with or based upon the price or timing of the sale of such crop or (ii) the marketing, the price or the timing of any sale of any crop of the Buyer and the Buyer agrees not to place any reliance on any statement made or advice given by any of the Company's employees, agents or representatives concerning such matters.

11. LIMITATION OF LIABILITY

- 11.1 In the event of any breach of the Company's obligations under the Contract the remedies of the Buyer will be limited to damages.
- 11.2 The Company does not exclude its liability (if any) to the Buyer:
- 11.2.1 for breach of the Company's obligations arising under section 12 Sale of Goods Act 1979 or section 2 Sale and Supply of Goods and Services Act 1982;
- 11.2.2 for personal injury or death resulting from the Company's negligence;
- 11.2.3 under section 2(3) Consumer Protection Act 1987;
- 11.2.4 for any matter which it would be unlawful for the Company to exclude or to attempt to exclude its liability; or
- 11.2.5 for fraud.
- 11.3 Subject to Condition 11.2:
- 11.3.1 the Company will be under no liability to the Buyer whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any loss of profit, indirect or consequential loss howsoever caused arising out of or in connection with the Contract; and
- 11.3.2 the Company's liability to the Buyer in respect of all other losses arising under or in connection with the Contract whether in contract, tort (including negligence), breach of statutory duty, or otherwise shall be limited to the lower of the actual direct loss of yield suffered by the Buyer and £250,000.
- 11.4 The Company shall not be liable to the Buyer for any act or omission of, or any reliance by the Buyer on any statement made by or advice given by, any agent or employee of the Company at any time when such agent or employee was acting on behalf of, or employed by, a person other than the Company.

12. ACKNOWLEDGMENT

- 12.1 The Buyer acknowledges that the provisions of Conditions 10 and 11 are reasonable and reflected in the price which would be higher without those provisions and the Buyer will accept such risk and/or insure accordingly.

13. FORCE MAJEURE

- 13.1 The Company will be deemed not to be in breach of its obligations or otherwise liable to the Buyer in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to Force Majeure, provided that it has and continues to comply with its obligations set out in Condition 13.2.
- 13.2 If the Company's performance of its obligations under the Contract is affected by Force Majeure:
- 13.2.1 it will give written notice to the Buyer, specifying the nature and extent of Force Majeure, as soon as reasonably practicable after becoming aware of the Force Majeure;
- 13.2.2 subject to the provisions of Condition 13.3, the date for performance of such obligation will be deemed suspended only for a period equal to the delay caused by such event of Force Majeure; and
- 13.2.3 it will not be entitled to payment from the Buyer in respect of extra costs and expenses incurred by virtue of the Force Majeure.
- 13.3 If the Force Majeure in question continues for more than 3 months, either party may give written notice to the other to terminate the Contract. The notice to terminate must specify the termination date, which must not be less than 15 Business Days after the date on which the notice is given, and once such notice has been validly given, the Contract will terminate on that termination date.

14. TERMINATION

- 14.1 Without limiting its other rights or remedies, each party may terminate the Contract immediately by notice in writing served on the other if:
- 14.1.1 the other party is in material breach of any of the terms of the Contract and, where the breach is capable of remedy (the Buyer's obligation to make any payment shall not be capable of remedy), fails to remedy such breach within 10 Business Days service of a written notice from the Company, specifying the breach and requiring it to be remedied;
- 14.1.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- 14.1.3 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 14.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- 14.1.5 the other party (being an individual) is the subject of a bankruptcy petition or order;
- 14.1.6 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 14.1.7 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- 14.1.8 a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

14.1.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

14.1.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Condition 14.1.2 to Condition 14.1.9 (inclusive);

14.1.11 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or

14.1.12 the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation; or

14.1.13 the Company reasonably anticipates that one of the events or circumstances mentioned in Condition 14.1.2 to Condition 14.1.911 (inclusive) is about to occur.

14.2 The termination of the Contract howsoever arising is without prejudice to the rights, duties and liabilities of either the Buyer or the Company accrued prior to termination and these Conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

14.3 The Company will be entitled to suspend any deliveries of Goods or performance of Services otherwise due to occur until either the breach is remedied or the Contract terminates, whichever occurs first.

15. INTELLECTUAL PROPERTY

15.1 No right or licence is granted to the Buyer in respect of the Intellectual Property Rights of the Company except in accordance with the terms of the Contract.

15.2 The Buyer will not without the Company's prior consent allow any trade marks of the Company or other words or marks applied to the Goods to be obliterated, obscured or omitted nor add any additional marks or words.

16. CONFIDENTIALITY

16.1 The Buyer will keep confidential all Confidential Information that it may acquire.

16.2 The Buyer will not use the Confidential Information for any purpose other than to perform its obligations under the Contract. The Buyer will ensure that its officers and employees comply with the provisions of this Condition 16.

16.3 The obligations on the Buyer set out in Condition 16.1 and 16.2 will not apply to any information which:

16.3.1 is publicly available or becomes publicly available through no act or omission of the Buyer; or

16.3.2 the Buyer is required to disclose by order of a court of competent jurisdiction.

17. DISPUTE RESOLUTION

17.1 If the Buyer has any justified claim relating to the supply of Goods or Services the Buyer must notify the Company in writing immediately on the Buyer becoming aware of the subject matter of the claim or should reasonably have been so aware. After notifying the Company of its claim the Buyer shall provide the Company, its employees and agents such access to its premises, documents and records to enable the Company to carry out such inspections or investigations into the claim as the Company considers necessary or desirable.

17.2 Notwithstanding the rights of access granted under Condition 17.1 the Buyer shall supply to the Company on demand samples of any Goods in relation to which the Buyer is making a quality claim. The Company and the Buyer shall jointly appoint an independent person to be the official analyst for these purposes who shall act as an expert and not as an arbitrator. If the Buyer and the Company are unable to agree on the identity of the independent expert, such expert shall be appointed by the Agricultural Industries Confederation. The results of such analysis shall be final and binding on the Company and the Buyer. The costs of the independent expert shall be borne by the Company and the Buyer as awarded by the expert.

18. GENERAL

18.1 No waiver by the Company of any breach of the Contract by the Buyer shall be considered a waiver of any subsequent breach of the same or any other provision.

18.2 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity

of the other provisions of these conditions and the remainder of the provisions in question shall remain unaffected.

18.3 The Company may assign, delegate, license, hold on trust or sub-contract all or any part of its rights or obligations under the Contract.

18.4 The Contract is personal to the Buyer who may not assign, delegate, license, hold on trust or sub-contract all or any of its rights or obligations under the Contract without the Company's prior written consent.

18.5 In these Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

18.6 Any notice or written request required to be given pursuant to these conditions must be in writing to the Company at Saxon Way, Melbourn, Royston, Hertfordshire SG8 6DN and addressed to the UK Managing Director or to the Buyer's address and are deemed delivered on the first Business Day after delivery by hand or sending (subject to confirmation of transmission) by facsimile, or, on the third Business Day after being placed correctly addressed and prepaid in the first class post.

18.7 The Company and the Buyer do not intend that any of the terms of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

18.8 The Company and the Buyer irrevocably agree, for the sole benefit of the Company that, subject as provided below, the Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with English law and the parties irrevocably submit to the jurisdiction of the courts of England. Nothing in this clause shall limit the right of the Company to take proceedings against the Buyer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction



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