

TCS06-0126

Supplementary terms and  
conditions for the sale of seed

**Frontier**

## **1. APPLICATION OF TERMS AND CONDITIONS**

- 1.1 These supplementary Terms and Conditions (the "Supplementary Conditions") constitute the conditions on which Frontier Agriculture Limited ( the "Company") is willing to supply seed (the "Seed") to any person to whom a quotation, confirmation of order or contract is addressed, from whom a telephone order is received or who receives the Seed (the "Customer"). The Supplementary Conditions shall prevail over any terms and conditions in the Customer's purchase order, confirmation of order or other document issued by the Customer.
- 1.2 The Supplementary Conditions are in addition subject to the Company's General Terms and Conditions (the "Conditions"). In the event of any conflict between these Supplementary Conditions and the Conditions these Supplementary Conditions will prevail.

## **2. AVAILABILITY**

- 2.1 The supply of United Kingdom grown Seed is subject to safe harvest and certification and the Company reserves the right in the event of market shortages to apportion such supplies as become available amongst its customers at its sole discretion. In the event that the Company's production contracts with third parties do not produce sufficient quantities of the required quality of Seed of the contract description to meet customer's requirements, the Company shall not be under an obligation to purchase such Seed from alternative sources of supply and the contract shall be deemed to be cancelled without liability to either party in relation to the unperformed portion. All Seed grown abroad is booked subject to the safe arrival and correct delivery of the relevant contract.

## **3. PLANT VARIETIES AND SEEDS ACT 1964 (AS AMENDED)**

- 3.1 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 rate of royalty payable to the owner of the rights the price will be adjusted accordingly.

#### **4. PERFORMANCE DISPUTES**

- 4.1 No complaint relating to the supply of Seed by the Company can be considered unless the Customer can provide clear proof that the Seed grown and alleged to have performed unsatisfactorily was in fact the Seed supplied and that it was sown on pre-prepared ground treated carefully and correctly throughout and subject only to such conditions that were likely to produce a favourable crop. Any complaint relating to the performance of Seed supplied by the Company must be made in accordance with Clause 15 of our Standard Terms and Conditions of Sale and confirmed in writing by recorded delivery as soon as reasonably practicable.
- 4.2 Any dispute under a Contract involving a Seed grower in the United Kingdom shall be referred to arbitration in accordance with the rules of the AIC.

#### **5. SEED TREATMENT AND TESTING**

- 5.1 Where the Customer requests any treatment whether chemical or otherwise to be applied to the Seed the Company's only duty shall be to ensure that such treatment is carried out in accordance with the instructions given by the manufacturer of the chemical in question and the Company accepts no responsibility whatsoever for the effectiveness of such treatment or for any liability, loss or damage, direct or consequential, which may result from such treatment.
- 5.2 Where the Seed has been treated with a liquid or powder to control pest or diseases or has been fumigated or pelleted, the purity and germination percentages may be based on tests made before the treatment.

#### **6. REPRODUCTION**

- 6.1 Where Seed is offered and sold for the production of consumer crops the Company accepts no responsibility or liability for any Seed produced by the Customer through reproduction.

#### **7. STANDARDS**

- 7.1 All information whether contained in the Company's catalogue, other documentation of the Company or given by staff relating to varieties, varietal characteristics or periods of maturity or fitness for any particular purpose or otherwise relating to the performance of Seed is given for general guidance only as variations in local or climactic conditions can render such information inaccurate and all liability of the Company in relation to such information is hereby excluded.

## **8. ADVENTITIOUS CONTAMINATION**

- 8.1 This clause applies to the sale of rapeseed and maize seed and references to “seed” herein are references to rapeseed and maize seed. The Company seeks assurances from seed breeders and from third party seed processors from whom the Company purchases pre-processed seed that appropriate controls are in place and that seed has been tested by a reputable laboratory for the adventitious presence of genetically engineered organisms. Seed processed by the Company is also so tested by a reputable laboratory prior to processing. Test results and further information on testing procedures and levels are held by the Company.
- 8.2 In respect of any seed, no guarantee, warranty or assurance can be given of the absence of organisms produced as a result of genetic engineering as seed is field grown and Europe is not a genetic engineering free environment. Testing does not guarantee an absence of genetically engineered organisms and only gives comfort that the levels on the sample tested of those particular genetically engineered organisms which are tested for, using particular methods, are as set out on the test certificate. Accordingly, no liability for loss or damage is accepted by the Company as a result of contamination of seed with genetically engineered organisms.

## **9. WARRANTY**

- 9.1 All Seed sold by the Company complies at the time of delivery with the UK Seeds Regulations currently in force and the minimum standards of the EU Seeds Directives unless otherwise stated
- 9.2 Diseases of plants can be transmitted by the wind, by insects, by animals or by human agencies and may be seed-borne or soil-borne. The Company believes the Seed is free from latent defects but it is not a condition of sale nor does the Company warrant that any Seed shall be free from such defect and the Company will not be responsible in any way for the resultant crop since any failure can depend on many factors outside the Company's control. In particular and without prejudice to the generality of this Clause, although every care is taken in the selection of Seed, it is not a condition of sale, nor does the Company warrant, that Seed is sold free from loose smut and the Company will not accept any liability whatsoever for any direct or consequential damage which the Customer might suffer as a result of the presence of loose smut in the Seed sold.
- 9.3 Where specially treated or tested Seed is offered, the Company's warranty is limited to the fact that the treatment or testing to the specification quoted has been carried out.

9.4 The Company excludes all liability whatsoever for:

- a) any defects in the Seed which could not reasonably have been discovered by the Company prior to delivery and for any defects in the Seed occurring without any negligence on the part of the Company; and
- b) all latent defects referred to in paragraph 9.2 above or otherwise.

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