

TCS09-0126

Supplementary terms and conditions for the sale of services relating to the application of soil sterilants for the control of potato cyst nematodes and other soil borne pests

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 services relating to the application of soil sterilants for the control of potato cyst nematodes (PCN) and other soil borne pests, and associated soil sampling (the "Services") 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 Services (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. SOIL SAMPLING

When requested by the Customer the Company will provide a soil sampling service to assist with the management of land intended for production of a potato crop subject to the following:

- 2.1 the fields must be identified by the Customer in a clear and definitive format on a suitably scaled map;
- 2.2 the selected fields will be sampled using one of the two following methodologies:
 - a) GPS referenced - either GPS point sampling, or GPS grid sampling or GPS lane sampling; or
 - b) designated block sampling on a "W" basis;
- 2.3 all reasonable care will be taken by the Company in obtaining representative samples from the area to be cropped, however, the sample results can only act as a guide because they are derived from the soil that was sampled and tested and the Company offers no warranty that these samples are representative of the whole field;
- 2.4 the Customer accepts that in order to manage potato cyst nematode infestations the following information will be considered in relation to the fields tested:
 - a) the history of potato cropping in the field;
 - b) previous sample results for the field;
 - c) the varieties of potato to be planted and their anticipated reaction to the levels of PCN

found in the samples;

- d) the species of PCN detected in the samples.
- 2.5 if the sample results are unexpected, the Customer accepts the field should be re- tested and any decision not to submit further samples for testing is done so at the Customer's own risk;
- 2.6 where PCN is detected in the sample results of the field, any decision not to treat the field with a nematicide is done so at the Customer's own risk.

3. APPLICATION OF PRODUCTS

- 3.1 The Company shall only use plant protection products that have been published in the UK Pesticide Guide and approved by the Health & Safety Executive - 'Chemical Regulations Directorate' (the "Products").
- 3.2 The Company shall only apply the Products in accordance with the manufacturer's written instructions or guidelines.
- 3.3 The Company will supply the Service to meet the application standards recommended by the manufacturer on the Product container label and as detailed in the "Code of practice for using plant protection products" prepared jointly by the Department for Environment, Food and Rural Affairs (Defra), the Health and Safety Commission (HSC) and the National Assembly for Wales Environment, Planning and Countryside Department.
- 3.4 The Company will apply the Product as detailed on the Product container label and in compliance with all approval requirements. In the event that the manufacturer's instructions differ from those recommended, the Customer shall contact the Company's local contract services manager. Under no circumstance should the treatment be allowed to go ahead until any contradictions in instructions or recommendations have been clarified.

4. RECOMMENDATIONS

- 4.1 Where the Company provides a recommendation in relation to the use of the Products and/or the provision of the Services (the "Recommendations"), the recommendation shall only be binding on the Company if provided in writing and the Customer shall not be entitled to rely on any oral representations or recommendations made by the Company in relation to the Products and/or the Services.
- 4.2 The Company excludes and the Customer accepts all liability for recommendations made by third parties. These third party recommendations will only be applied following the written recommendations being received by the Company and authorised by the Customer.

5. TREATMENT AREA

- 5.1 Information regarding treatment areas must be supplied by the Customer in a clear and definitive format on a suitably scaled map.
- 5.2 It is the Customer's responsibility to supply detailed maps showing all areas that must NOT receive any chemical treatments. The Customer will supply all requested information regarding these areas, including measurements relating to size (width & length) and type (wild bird seed mixture, conservation headland etc). Where a map alone is not deemed by the Company to be sufficient, the Customer will mark out the relevant areas of land using markers (supplied by the Company).

6. LIABILITY

- 6.1 The Customer accepts that the Company will not be held liable for any loss incurred as a result of treatments being applied to those areas mentioned in 5.2 above unless caused by the Company's own negligence.
- 6.2 The Company may at its discretion and acting reasonably delay the provision of the Services for any reason including, but not limited to, adverse weather conditions, availability of the Products and the availability of suitable equipment and the Company shall be under no liability to the Customer for any loss or damage suffered by the Customer resulting from any such delay.
- 6.3 The Company shall be under no liability to the Customer for any loss or damage suffered by the Customer resulting from the Company complying with any specific instructions made by the Customer relating to the Products and/or Services (including, without limitation, any instructions contrary to any recommendations made by the Company or a manufacturer's advice).

7. PARTIES

As tenant (where applicable) the Customer accepts responsibility for complying with the Supplementary Conditions and the Conditions on behalf of the landowner.

8. EQUIPMENT OPERATORS

Equipment operators provided by the Company have no authority to vary the contracted areas for treatment/non treatment and all such requests for variation must be made by the Customer to a Company Contracts Manager for approval.

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