

Seed Technology Limited (T/A “Seedtech” & “Seed Technology Ltd.”, Registered in Ireland No. 63121, the “Seller”)

Terms and Conditions of Sale

1. **Interpretation.**
- 1.1. In these Conditions the following terms shall have the following meanings:
 - “**Basic Seed**”: is seed of a Protected Variety from which seed of the first generation is produced.
 - “**Buyer**”: the person or entity who accepts a quotation given by the Seller for the supply of the Goods and/or the Services or whose order for Goods and/or Services is accepted by the Seller.
 - “**Conditions**”: the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) any special terms and conditions agreed in Writing between the Buyer and the Seller.
 - “**Contract**”: the contract for the purchase and sales of the Goods and/or Services.
 - “**First Generation Seed**”: (otherwise known as “C1” or “Blue Label Seed” means seed of a protected variety which is produced from Basic Seed.
 - “**Goods**”: the goods (including any instalment of the goods or any part thereof) described in the quotation given by the Seller to the Buyer or the order from the Buyer accepted by the Seller, which the Seller is to supply in accordance with these conditions.
 - “**Protected Variety**”: is a plant variety which is protected under the provisions of Council Regulation 2001/94 and the further Regulations, Directives and Decisions of the Plant Varieties (Proprietary Rights Act 1980) and any subsequent enactments and/or statutory instruments made thereunder.
 - “**Services**”: the services (including any part of them) described in the quotation given by the Seller to the Buyer or the order from the Buyer which the Seller is to supply in accordance with these Conditions.
 - “**Seller**”: Seed Technology Limited, a company registered in Ireland with company number 63121.
 - “**Writing**”: includes email and comparable means of communication but excludes fax transmission.Any reference in these Conditions to any provision of a statute, statutory instrument or regulation shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time. The headings in these Conditions are for convenience only and shall not affect their interpretation.
2. **Conditions Applicable**
- 2.1. These conditions shall apply to all Contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order, confirmation of order or similar document or communication.
- 2.2. All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these conditions. The order for Goods shall only be deemed to be accepted when the Seller issues a written acceptance of the order. Acceptance of delivery of the Goods shall be deemed to be conclusive evidence of the Buyer's acceptance of these terms and conditions.
- 2.3. Any variation to these conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in Writing by the Seller. The Seller's employees or agents are not authorised to make any representations concerning the Goods and/or Services unless confirmed in writing by the Seller. In entering into the Contract the Buyer acknowledges that it does not rely on and waives any claim for breach of any representations which are not so confirmed.
- 2.4. Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents with regard to the storage, application or use of the Goods and/or the output of the Services which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.5. Any typographical, clerical or other error or omission in any sales literature, quotation price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.
- 2.6. To the extent that the individual sales contract and these Conditions do not provide otherwise, the “Rules and Usages for the Trade in Seeds for Sowing Purposes”, as published by the International Seed Federation and effective on the day of sale shall apply (hereinafter referred to as the “ISF Rules”). The ISF rules are available at www.worldseed.org under “Trade Rules” and from the Seller at the buyer's request.
- 2.7. In the event of any dispute, ambiguity in interpretation or claim between the Seller and the Buyer, the individual sales contract and its specific terms shall have first rank. To the extent that the individual contract and its specific terms are silent, these Terms and Conditions have second rank. To the extent that these Terms and Conditions are silent, the ISF Rules have third rank. If the ISF Rules are silent, the ordinary rules of the governing law shall prevail. Notwithstanding the above, clause 15 of these conditions shall have first rank in any event.
3. **Product Standard**
- 3.1. Unless stated otherwise, all seed sold by the Seller shall comply at the time of delivery with prevailing Irish Law and any relevant prevailing regulations for the sale of seeds in Ireland.
- 3.2. All information concerning the Goods, howsoever conveyed (and including information contained in advertisements, catalogues, websites, emails, videos and social media messages or given by employees or agents of the Seller), is given for general guidance only. The Buyer is advised that any such information given to him does not constitute a representation by the Seller and should not be relied upon as such. The Buyer should satisfy himself that any Goods which he orders are of a variety and performance satisfactory for his requirements and so orders such Goods at his own risk. Buyers are advised that our staff have no authority to give more than general guidance to Buyers and we disclaim liability for any advice given or opinion expressed by them. Any such advice is followed or any such opinion acted upon entirely at the Buyer's own risk.
4. **Availability of Goods**
- 4.1. Orders are accepted by the Seller subject to Goods of the contract description being available to the Seller at the time delivery is required, so to which the Seller accepts no obligation. If the Seller's production contracts with third parties do not produce sufficient quantities of Goods of the contract description to satisfy the Buyer's requirements, the Seller shall not be under any obligation to purchase Goods from alternative sources of supply.
- 4.2. If the Seller has insufficient Goods of the contract description available to meet all its requirements, the Seller shall be entitled to allocate such Goods as are available to it in such quantities and to such Buyer or Buyers as it shall in its absolute discretion determine.
- 4.3. The Buyer shall pay pro-rata for any partial delivery of the Goods ordered. If the Seller is unable to deliver any Goods to the Buyer, the contract for the sale thereof shall terminate without any further liability on either party. The Seller shall use all reasonable endeavours to notify the Buyer at the earliest opportunity of any shortages or non-availability of Goods.
- 4.4. No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including consequential loss and loss of profit) and costs (including the cost of cancellation of any orders placed by the Seller in order to fulfil the contract, transportation and warehousing costs), damages charges and expenses incurred by the Seller as a result of such cancellation.
5. **Price and Payment**
- 5.1. All prices are quoted exclusive of value added tax. All prices quoted by the Seller in catalogues, brochures and price lists are subject to change or withdrawal without notice.
- 5.2. The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price to reflect any increase in the cost to the Seller which is due to any factor beyond the reasonable control of the Seller including without limitation, any increase in commodity prices, any increase charged to the Seller for the Goods and/or Services, the imposition of or increase in any tariff or tax, any increase in shipping, marine insurance, freight or landing charges and in the case of imported Goods any variation of exchange rates.
- 5.3. Payment for the Goods shall be made in full by the Buyer within twenty eight days of despatch of the Goods unless otherwise agreed in writing. Payment shall not be deemed to have been received by the Seller until the Seller has received cleared funds.
- 5.4. If payment is not made in full by the due date, the Seller reserves the right to charge interest on the price or part unpaid thereof in accordance with Late Payments in Commercial Transactions Regulations 2012, as amended or replaced from time to time. Alternatively, the Seller reserves the right to collect any credit charges due on late payments, where these are included on the related invoices.
- 5.5. The Seller reserves the right to cancel any order or suspend delivery if in the Seller's sole opinion it considers that any of the Buyer's obligations may not be met and the Seller reserves the right to require immediate payment at any time. The Seller may, at its absolute discretion, demand payment for the Goods in advance of any delivery.
- 5.6. In the event that the Buyer 1) being an individual shall die or commit an act of bankruptcy or make any arrangement or composition with his creditors or 2) being a limited company any resolution or petition to wind up the Buyer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver or examiner should be appointed over the whole or part of the Buyer's business or assets or if any petition for the appointment of an examiner is presented against the Buyer or if the Buyer shall suffer any analogous proceedings under foreign law, any sums due to the Seller shall become immediately due and payable and the Seller may cancel or suspend all further deliveries under the Contract or under any other contract between the Buyer and the Seller without incurring any liability to the Buyer.
- 5.7. The Buyer irrevocably agrees to the Seller being entitled to offset any monies owed by the Seller to the Buyer against any monies owed by the Buyer to the Seller at the Seller's absolute discretion.
6. **Delivery and Risk**
- 6.1. Delivery dates are approximate only and the Seller shall not be liable for any delay in delivery of the Goods and/or Services however caused. Time shall not be of the essence unless otherwise agreed in writing.
- 6.2. The Goods shall be delivered to the Buyer at the address specified by the Buyer. The risk in the Goods shall pass to the Buyer upon such delivery taking place. Where the Buyer organises collection of the Goods from the Seller's premises or store, then the risk in the Goods will pass to the Buyer once the Goods are loaded onto the transport vehicle organised by the Buyer.
- 6.3. If the Buyer fails to take delivery of the Goods then, without prejudice to any other right or remedy available to the Seller, the Seller may charge the Buyer for reasonable storage costs and wasted delivery charges. At its absolute discretion, the Seller may sell the Goods at the best price readily attainable and charge the Buyer for any shortfall below the price under the Contract.
- 6.4. Unless otherwise agreed, the Seller shall arrange for the carriage of the Goods to the Buyer's address. The costs of carriage and any insurance which the Buyer reasonably directs the Seller to incur shall be reimbursed by the Buyer and shall be due on the date for payment of the price. The carrier shall be deemed to be the Buyer's agent. If Goods are damaged in transit it is essential that the delivery sheets are signed “damaged in transit”. No claim for damage can be entertained unless made in writing within three days of delivery of Goods both to the carriers and the Seller.
- 6.5. Returns of Goods are at the absolute discretion of the Seller. Returns must be in a fit condition for resale. The Seller reserves the absolute right, at its sole discretion, to remedy or replace the goods or packaging and the Buyer agrees to pay the seller all costs associated with such remedial actions.
- 6.6. The Seller may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with these conditions.
- 6.7. No failure of or delay in delivery of any instalment nor any defect in the Goods the subject thereof shall entitle the Buyer to treat the sale of Goods as repudiated.
- 6.8. Failure by the Buyer to take delivery of any instalment of the Goods or to pay for such instalment in accordance with these conditions shall entitle the Seller to terminate the contract and/or to sell the Goods, in which case the Buyer shall be liable for any costs or losses incurred by the Seller.
7. **Title**
- 7.1. In spite of delivery having been made, the ownership of the Goods shall not pass to the Seller until the Buyer has paid for the Goods in full and there are no other sums whatsoever due from the Buyer to the Seller.
- 7.2. Until ownership of the Goods passes to the Buyer in accordance with clause 7.1, the Buyer shall hold the Goods on a fiduciary basis as bailee for the Seller. The Buyer shall store the Goods (at no cost to the Seller) separately from all other Goods in its possession and marked in such a way that they are clearly identified as the Seller's property.
- 7.3. The Seller shall be entitled to recover the price plus VAT notwithstanding that ownership of any of the Goods has not passed from the Seller.
- 7.4. Until such time as ownership of the Goods passes to the Seller, the Buyer shall upon request deliver up such of the Goods as have not been used to be in existence or resold to the Seller. If the Buyer fails to do so the Seller may enter upon any premises owned, occupied or controlled by the Buyer where the Goods are situated and repossess the Goods.
- 7.5. The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so, all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.
8. **Force Majeure**
- 8.1. The Seller shall not be responsible for any loss or damage whatsoever caused through its inability to fulfil or delay in fulfilling any order due to any circumstance or occurrences beyond its control. In the event of such inability or delay the Seller shall be entitled after a reasonable period of time to determine the contract wholly or in part cancelled without incurring any liability whatsoever.
9. **Warranty, Claims and Limitation of Liability**
- 9.1. Subject to the conditions set out in these Conditions, the Seller warrants that the Goods will in all material respects be to the standard described in Clause 3 (where appropriate) and will correspond with their description. The Seller warrants that the Services will be supplied with reasonable skill and care.
- 9.2. The Seller believes the Goods to be free from latent defects but it is not a condition of sale nor does the Seller warrant that any Goods sold shall be free from such defects and as a consequence will not be responsible for the resultant crop.
- 9.3. Notwithstanding the terms of the warranty set out in Clause 9.1 above, the Seller shall not be liable to the Buyer for any variation in description or specification arising from any local or climatic conditions. The Seller does not warrant the fitness of the Goods for any particular purpose even though the purpose may be known and no such warranty is to be implied from the description under which the goods are sold.
- 9.4. In no case will the Seller accept any claim arising from the use of seeds in any other than the first growing season after delivery.
- 9.5. Claims by the Buyer based upon those defects of quantity, quality or condition (“Claim”) which are to be apparent upon reasonable examination shall be notified to the Seller by telephone or email transmission and written confirmation dispatched within three business days of delivery of the Goods.
- 9.6. The Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods (and/or the Service) has not been paid and the due date for payment has passed.
- 9.7. The Buyer shall not be entitled to make any claim unless the Goods were supplied by the Seller, have been properly and appropriately stored during the period after arrival at their destination and were sown on suitably prepared ground, treated carefully and correctly throughout, and subjected only to such conditions as were likely to produce a favourable crop. The Buyer shall take all necessary and reasonable measures to mitigate damage or loss without prejudice to any claim of either party.
- 9.8. Some seed sold by the Seller is chemically treated to control pests and diseases. The Buyer shall strictly observe the precautions detailed on the packaging in default of which the Seller will accept no complaint.
- 9.9. The Seller excludes all liability whatsoever for any defects in the Goods 1) which could not reasonably have been discovered by the Seller prior to delivery or 2) occurring without any negligence on the part of the Seller or 3) for any lack of effectiveness of any chemical treatment of the Goods.
- 9.10. Nothing in these conditions shall exclude or limit the Seller's liability for 1) death or personal injury caused by its negligence, or 2) fraud or fraudulent misrepresentations or 3) any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.
- 9.11. The Seller shall not be liable to the Buyer or be deemed to be in breach of contract by reason of any delay in performing or any failure to perform any of the Seller's obligations in relation to the Goods and/or Services if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as a non-exhaustive list of causes beyond the Seller's reasonable control:
 - act of God, explosion, flood, tempest, pandemics or any other outbreaks of disease or illness, fire or accident;
 - war or threat of war, terrorist activity, sabotage, insurrection, civil disturbance or requisition;
 - acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - import or export regulations or embargoes;
 - strikes, lock-outs, or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party), difficulties in obtaining raw materials, labour, fuel, parts or machinery; either by the Seller or third party manufacturer or supplier; and
 - power failure or breakdown in machinery.
- 9.12. In the event that any Goods supplied by the Seller do not comply with the express terms of the Contract, the Seller will at its option replace the Goods free of charge to the Buyer or refund any payments made to the Seller by the Buyer for the particular Goods in question and this shall be the limit of the Seller's obligation.
- 9.13. The total aggregate liability of the Seller shall not exceed the lower of the invoiced sales price of the Goods giving rise to any claim or €75,000 - irrespective of the nature of the claim(s), whether in contract, tort, warranty or otherwise.
- 9.14. The Seller shall not be liable for any indirect, special, incidental or consequential loss or damage or punitive damages of any nature, including, but not limited to, business interruption costs, loss of production/growth, loss of contracts, loss of profit, injury to reputation or loss of customers, or for any other consequential honorary or indirect loss whatsoever. These limitations of liability apply for all liabilities including but not limited to, liability for delay, defects and product liability.
- 9.15. The price of the Goods is based on the limitations upon the Seller's liability. The price of the Goods would be much greater if a more extensive liability were required to be undertaken. If a Buyer wishes for the Seller to assume a greater liability than the liability assumed herein then the Buyer should ask the Seller to quote a price accordingly.
- 9.16. No liability is accepted for any damage or loss whatsoever arising from traces of genetically modified impurities in the seed.
- 9.17. The Buyer shall indemnify and hold the Seller harmless to the extent of the Seller incurs liability towards any third party in respect of loss or damage for which the Seller is not liable towards the Buyer.
10. **Multiplication**
- 10.1. Unless otherwise expressly agreed in writing by the Seller (or its agent the Plant Variety Development Office CLG), the Goods are sold for the production of consumer crops and the Buyer shall not use the Goods for multiplication of seeds. For the avoidance of doubt, First Generation Seed (also known as “C1” or “Blue Label Seed”) may not be multiplied by the Buyer. Basic Seed of a Protected Variety may only be multiplied by the Buyer if they Buyer holds a valid licence for the multiplication and dealing in seed of a protected variety from the Plant Variety Development Office CLG and has agreed to and signed the additional special sales terms and conditions that apply to Basic Seed.
11. **Export Control and International Sanctions**
- 11.1. The Buyer agrees not to disclose information or sell, export or re-export, divert or otherwise transfer goods or technology, whether directly or indirectly, sold or otherwise provided by Seller to the Buyer to any destination or legal or natural person, if such action is prohibited by, or subject to sanctions under any applicable sanctions or export control laws or regulations, including but not limited to the laws and regulations of the United Nations, the United States of America, the European Union and the United Kingdom.
- 11.2. Seller shall not be obliged to sell, transfer or otherwise deliver goods or technology to any Buyer, if such sale, transfer or delivery would be prohibited pursuant to applicable sanctions or export control laws or regulations.
12. **Arbitration**
- 12.1. Any dispute (other than a claim for an unpaid debt) shall be referred to arbitration shall be settled in Dublin, Ireland, by arbitration in accordance with ISF Rules, Section XXXIII, Dispute Resolution (the ISF “Procedure Rules for Dispute Settlement for the Trade in Goods for Sowing Purposes).
- 12.2. Arbitration proceedings shall be commenced as regards claims relating to quantity or quality within 28 days from the date of arrival of the Goods at their ultimate destination and any technical claims within 90 days of delivery, subject to buyer fulfilling clause 9.6.
13. **Confidentiality**
- 13.1. Each party to the Contract shall keep strictly confidential all information concerning the business and affairs of the other obtained from the other either pursuant to the Contract or prior to and in contemplation of it, shall use the same exclusively for the purposes of the Contract, and shall disclose the same only to those of its directors and employees to whom and to the extent that such disclosure is reasonably necessary for the purposes of the Contract.
- 13.2. The obligations of clause 13.1 above shall survive the expiry or termination of the Contract but shall not apply to any information which:
 - o the recipient can demonstrate was already in its possession and at its free disposal prior to receipt under the circumstances mentioned at clause 13.1 above;
 - o is subsequently disclosed to the recipient without any obligation of confidence by a third party who has not derived it directly or indirectly from the disclosing party; or
 - o enters the public domain through no act or default of the recipient, its agents or employees.
14. **Health and safety**
- The Buyer shall take all reasonable steps to ensure that the Goods are safe and without risk to health when properly used in accordance with instructions and information supplied to the Buyer. The Buyer shall indemnify the Seller against all costs, claims, demands, expenses and liabilities of whatever nature other than in respect of death or personal injury acting out of or in connection with the sale or use or possession of the Goods by the Buyer.
15. **Governing law**
- The construction, validity and performance of this Contract and all matters pertaining thereto shall be governed in all respects by Irish Law and subject to the jurisdiction of the Irish Courts.